

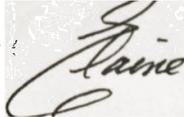


COLORADO

Department of Public
Health & Environment

To: Members of the State Board of Health

From: Kara Johnson-Hufford, Interim Deputy Division Director, Health Facilities and
Emergency Medical Services Division

Through: Elaine McManis, Interim Division Director )

Date: April 20, 2022

Subject: Request for a Rulemaking Hearing concerning 6 CCR 1011-4 - Standards for
Secure Transportation Services

House Bill 21-1085 created a regulatory and service system to provide secure transportation services to individuals experiencing a behavioral health crisis, and it requires the Colorado Department of Public Health and Environment (Department) to develop minimum standards for urgent secure transportation services, to be adopted by the Board of Health by July 1, 2022. The Board of County Commissioners of the county in which the secure transportation service is based will be responsible for the implementation of the program, including: issuing of licenses and vehicle permits for such transports, complaint processing, and enforcement of the proposed rules.

The Health Facilities and Emergency Medical Services Division (Division) began the stakeholder process for the regulatory development of minimum standards for secure transportation services in September 2021 and worked extensively with representatives from organizations currently providing secure transportation services, as well as a larger stakeholder group, in order to develop an informed and efficient set of rules that ensures the health, safety, and welfare of the clients and providers of those services.

In response to the statutory obligation to develop rules, the robust stakeholder process, and the Division's comprehensive rulemaking approach, the rules being proposed include the following parts:

- Part 1 - Statutory Authority and Applicability
- Part 2 - Definitions
- Part 3 - County Issuance of Licenses and Vehicle Permits
- Part 4 - Complaints
- Part 5 - Denial, Revocation, or Suspension of Licensure and/or Vehicle Permits
- Part 6 - Data Collection and Reporting Requirements
- Part 7 - Staffing Requirements
- Part 8 - Clinical, Medical, and Operating Standards and Procedures
- Part 9 - Client Rights
- Part 10 - Quality Management Program

The Division is requesting that the Board schedule a public rulemaking hearing on the proposed new rule, 6 CCR 1011-4 - Standards for Secure Transportation Services, for June 15, 2022.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for New Rule
6 CCR 1011-4, Standards for Secure Transportation Services

Basis and Purpose.

General Overview

Secure transportation is an unregulated industry in Colorado that has been commonly utilized to transport an individual who is experiencing a behavioral health crisis (1) from the community or other (custodial) location to an appropriate behavioral health care facility, or (2) from one such facility to another. The assortment of entities that now provide secure transportation services include law enforcement, licensed ground ambulance agencies, security companies, and behavioral health providers.

House Bill 21-1085 created a regulatory blueprint for entities that provide urgent secure transportation services to individuals experiencing a behavioral health crisis. As pertinent here, the law codifies licensing and permitting requirements that are similar to the ground ambulance agency regulatory scheme. That is, the General Assembly requires the State Board of Health adopt rules establishing the minimum requirements for the licensure and operation of secure transportation services, but it vests counties with the authority to license secure transportation services, issue permits for secure transportation service vehicles, and enforce the promulgated regulations. Beginning January 1, 2023, any entity providing secure transportation services, with limited exceptions, must apply for and receive a license issued by the county in which the service is based and a permit for each vehicle used by the secure transportation service.

By promulgating this regulatory scheme, the General Assembly sought to increase consumer accessibility to safe and secure transportation services by allowing a broader array of licensed transports to provide these services. It also intended to provide a trauma-informed, less stigmatizing means of providing secure transportation to individuals who are experiencing a behavioral health crisis and only require a safe ride to behavioral health facilities. An intended consequence of this bill is to free law enforcement and licensed ground ambulance agencies from having to provide urgent secure transportation services to individuals who do not require medical or law enforcement intervention.

The proposed rules meet the statutory obligation to adopt minimum regulatory requirements for secure transportation services by July 1, 2022. Section 25-3.5-311(1), C.R.S., provides that the rules must include, but are not limited to:

- Vehicle staffing;
- Staff training requirements;
- Operating procedures (including situations where physical restraints are allowed);
- Quality improvement and complaint investigation processes;
- Data collection and reporting on data utilization;¹
- Minimum clinical and medical standards and procedures;
- Circumstances under which a person may be transported; and
- Criteria for client pickup and drop-off.

¹ The Department is also required to make the data collected by secure transportation providers public. Section 25-3.5-103(11.4)(b), C.R.S.

The rules were developed collaboratively between the Colorado Department of Public Health and Environment (Department), stakeholders that are currently providing secure transportation services (such as security agencies, licensed ground ambulance agencies, and behavioral health providers), behavioral health advocates, representatives of Colorado Counties, Inc. (CCI), the Colorado Department of Health Care Policy and Financing (HCPF), and the Office of Behavioral Health (OBH) in the Colorado Department of Human Services (CDHS).

Statutory Overview

The General Assembly establishes the defining criteria for secure transportation services in Section 25-3.5-103(11.4)(b), C.R.S. by setting forth specific situations in which licensed services can provide urgent secure transportation:

- (1) Secure transport **from the community to a facility** can be provided to individuals age 15+ who:
 - voluntarily seek mental health services;² or
 - have been taken into emergency custody or placed on a 72-hour hold and require immediate evaluation and treatment;³
- (2) Secure transport **from any location to an approved treatment facility or walk in crisis center** as described in Section 27-81-106, C.R.S., can be provided to individuals in need of voluntary or emergency services for alcohol and substance abuse disorders;⁴ and
- (3) **Inter-facility** secure transportation services can be provided for an individual experiencing a behavioral health crisis **across levels of care or to a higher level of care**, between any of these statutorily-enumerated facilities:
 - An emergency medical services facility, as defined in Section 25-3.5-103(8.1), C.R.S.;⁵
 - A facility that has been designated for treatment and evaluation by the Executive Director of CDHS, pursuant to Article 65 of Title 27, C.R.S.;
 - Public and private treatment centers for alcohol abuse disorders that are approved by OBH pursuant to Section 27-81-106, C.R.S.;
 - A walk-in crisis center that operates as part of the behavioral health crisis response system; or
 - A licensed behavioral health entity⁶ with a current twenty-four-hour endorsement.⁷

² Section 27-65-103, C.R.S.

³ Section 27-65-105, C.R.S.

⁴ Sections 27-81-101, et seq. and 27-82-101, et seq.

⁵ “Emergency medical services facility means a licensed or certified facility that provides emergency medical services, including but not limited to hospitals, hospital units as defined in section 25-3-101, freestanding emergency departments as defined in section 25-1.5-114, psychiatric hospitals, community clinics, community mental health centers and acute treatment units.”

⁶ “Behavioral health entity” means a facility or provider organization engaged in providing community-based health services, which may include behavioral health disorder services, alcohol and substance use disorder services, crisis stabilization, acute or ongoing treatment, or community mental health center services as described in Section 27-6-101(2) and (3), C.R.S....” Section 27-65-102(1.5) Effective July 1, 2022.

⁷ Section 25-27.6-106, C.R.S.

Section 25-3.5-103(11.4)(c), C.R.S. states that law enforcement agencies (or personnel employed by or contracted with law enforcement agencies) do not fall within the definition of “secure transportation service” and, therefore, are not governed by these rules.⁸ The General Assembly expressly identifies and allows four entities—ground ambulance agencies, transportation services provided by OBH, emergency patrols established pursuant to Section 27-81-115, C.R.S.,⁹ and law enforcement¹⁰—to continue to provide secure transportation services to individuals experiencing a behavioral health crisis without obtaining a license.

Operationally, these four entities will be able to augment the provision of necessary secure transportation services in Colorado, particularly in rural areas where those resources may be limited or non-existent. The law enforcement exemption recognizes that law enforcement will continue to provide secure transportation services to the small percentage of violent or potentially violent consumers who are “in need of behavioral health care.” While exempt from required to obtain a secure transportation license, current licensed ground ambulance agencies may be reimbursed for providing secure transportation services as long as they are in compliance with these proposed rules.¹¹

The proposed regulatory scheme requires all other entities that provide public or private urgent secure transportation services in Colorado to obtain a license from the board of county commissioners in the county in which the service is based¹² starting on January 1, 2023.¹³ The statute further mandates that the county shall issue a separate permit for each secure transportation service vehicle employed by the licensed service.¹⁴ The county will set and collect licensure, permitting, and renewal fees in an amount that reflects the costs the county incurs to implement the licensing scheme.¹⁵

The statute requires the board of county commissioners to review the application, the applicant’s record, equipment, training and operating procedures, and evidence submitted by the applicant to substantiate that the foregoing meet or exceed all minimum requirements as set forth in these rules before it issues a license.¹⁶ The board of county commissioners is authorized to impose additional requirements for secure transportation licensure by resolution.¹⁷

Likewise, the county commissioners must issue a vehicle permit only if the vehicle and its equipment meets or exceeds the proposed minimum requirements.¹⁸ Each secure transportation service license is effective for three (3) years, and each vehicle permit is

⁸ However, the General Assembly provides that any member of a law enforcement co-responder team who is “not law enforcement or personnel employed by or contracted with a law enforcement agency” and who is licensed to provide secure transportation services in a properly permitted vehicle “by the county in which the secure transportation originates” is considered to be a secure transportation service that may provide urgent secure transportation services.

⁹ Section 25-3.5-109(1)(a) & (2), C.R.S.

¹⁰ Ibid.

¹¹ Section 25-3.5-309(3), C.R.S.

¹² The General Assembly’s language in Section 25-3.5-103(11.4)(c), C.R.S. clarifies that the county in which a secure transportation service is based means “the county in which the secure transportation originates, . . .”

¹³ Section 25-3.5-309(1)(a), C.R.S.

¹⁴ Section 25-3.5-309(4), C.R.S.

¹⁵ Section 25-3.5-309(1)(b), C.R.S.

¹⁶ Section 25-3.5-310(1)(a), C.R.S.

¹⁷ Section 25-3.5-310(1)(a), C.R.S.

¹⁸ Section 25-3.5-310(1)(b), C.R.S.

effective for twelve (12) months; each is renewable.¹⁹ Secure transportation licenses and vehicle permits cannot be sold, assigned, or transferred.²⁰

All of these statutory requirements have been codified in the proposed rules. The stakeholders understand that these regulatory requirements are mandated by law.

Proposed Rules

This section discusses the most important substantive portions of the proposed Secure Transportation rules.

Part 3. County Issuance of Licenses and Vehicle Permits

Licensure

Sections 25-3.5-311(1)(c) & (f), C.R.S. require the Board of Health to adopt rules that outline the minimum requirements for operating procedures, including “minimum clinical and medical standards and procedures” and “circumstances when individual physical restraint is allowed.” The Department learned that stakeholders currently employ different business operating models that serve different client populations. For example, many agencies that currently provide secure transportation decline to transport individuals who require physical restraint; security companies that offer secure transportation services typically accept these transports. Also, with the exception of licensed ground ambulance agencies, existing secure transportation services do not provide medical care. Given these nuances, the stakeholders uniformly agreed that the proposed licensure rules should prohibit the provision of medical services and intervention, but should confer applicants with the discretion to apply for a secure transportation service license that does not require the application of physical restraint.

The statutory definition of secure transportation services contemplates the provision of transportation services only.²¹ Therefore, the proposed rules (1) prohibit licensed secure transportation services from transporting a client who requires medical treatment or monitoring during transport and (2) require services to develop policies and procedures concerning the assessment of the client’s medical needs before and during transport.²² This clear delineation between transportation and medical services establishes that licensed secure transportation services may not provide medical treatment or monitoring services while acting under a secure transportation license. Only a ground ambulance agency may provide medical services during transport while acting under its ground ambulance license.

With respect to the restraint issue, the Department and stakeholders propose that the Board adopt a licensure classification system conditioned upon whether the service is authorized to use individual physical restraint during secure transportation. Services that anticipate using individual physical restraints, such as security companies, may apply for a Class A license²³ and employ physical restraints only as allowed by rule. Those services that do not wish to employ physical restraint during secure transportation may apply for a Class B license.²⁴

¹⁹ Sections 25-3.5-310(1)(b) & (2) C.R.S.

²⁰ Section 25-3.5-310(3), C.R.S.

²¹ Section 25-3.5-103(11.4)(A), C.R.S.

²² Parts 8.1(C) and 8.2(A)(1) & (2).

²³ Part 3.4(A)(1)(a).

²⁴ Part 3.4(A)(1)(b).

The rationale for this scheme is supported by law at Section 26-20-101, et seq., C.R.S. (The Protection of Individuals from Restraint and Seclusion Act (“Restraint Act”). The Restraint Act already sets forth the circumstances in which physical, mechanical, and chemical restraints may be used by “agencies” upon individuals.²⁵ The Department aligned its restraint rules with the requirements of the Restraint Act to define the limited and emergent circumstances in which a Class A agency may apply physical restraint to an individual during secure transportation for health and safety purposes.²⁶

The Department learned that secure transportation services utilize “soft” restraints, a category of restraint that is defined as a “mechanical restraint” in the Restraint Act. (“‘Mechanical restraint’ means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body.”)²⁷ However, Section 25-3.5-311(1)(c), C.R.S., requires the Board to adopt rules concerning “circumstances when individual physical restraint is allowed; . . .” To avoid confusion, the Department has adopted the Restraint Act’s definition of mechanical restraint and applied it as the definition of “physical restraint” for purposes of these rules.²⁸

In summary, the rules propose that a Class A licensee may only use physical restraint upon an individual under limited, emergent circumstances as defined by rule. Holders of Class B licenses are prohibited from using any physical restraints. Both Class A and B licensees must meet general licensing requirements,²⁹ data collection and reporting requirements,³⁰ staffing requirements and minimum training standards,³¹ and applicable vehicle permitting requirements.³² The rules also require Class A licensees to meet additional requirements relating to the application, documentation, and reporting of lawful physical restraint.³³

Engaged stakeholders support the Class A and Class B licensing construct that the Department proposes in these rules. They are aware that the restraint requirements mirror and do not conflict with the Restraint Act. Further, they agree that physical restraint should only be applied after lesser strategies (such as verbal de-escalation attempts) have failed, and they support the restraint requirements that allow the use of physical restraint only under emergency circumstances in which the client is threatening physical harm to self or others with the means to inflict harm, as proposed in these rules.

Vehicle Permits

Section 25-3.5-309(4), C.R.S., requires that each vehicle used by a licensed secure transportation service must have a separate permit issued by the board of county commissioners in which the service is based. During the stakeholder process, the Department learned that a variety of different types of vehicles are used for secure transportation, including sport utility vehicles (SUVs), sedans, limousines, passenger vans, and cargo vans. Additionally, the vehicle safety equipment on board varies; some of the vehicles have safety partitions that separate the passenger compartment from the driver and others do not. The safety partitions may be permanent plexiglass, a metal mesh “cage”, or other type of barrier

²⁵ See Section 26-20-101, et seq., C.R.S.

²⁶ Sections 26-20-102(3) and 26-20-103(1), C.R.S. and Part 8.3.

²⁷ Section 26-20-102(4), C.R.S.

²⁸ Part 2.14.

²⁹ Parts 3.3(A)(1)-(10)(a)-(c), and (e); and Part 3.3(C).

³⁰ Part 6.

³¹ Part 7.1-7.3 (minimum qualifications and responsibilities for manager and administrator); Part 7.6 (minimum secure transportation service staffing)

³² Part 3.4(B).

³³ Parts 3.3(A)(10)(f), 7.7(A)(3), and 8.3(C).

that allows the driver to observe the client but does not allow physical contact. Whether a vehicle has a partition, therefore, impacts the staffing levels needed for safe transport.

Some secure transportation service providers explained that they typically utilize only one staff member, the driver, to transport individuals in partitioned cars. They complained that rules requiring elevated staffing levels for an individual transport in a partitioned vehicle would not enhance the safety of the consumer or staff; in fact, they would be unnecessarily onerous and expensive. Some providers stated that the expense of implementing enhanced staffing requirements for individual transports in partitioned vehicles would put them out of business, thus potentially limiting access to secure transportation services across the state.

Based on the information learned during this process, the Department and stakeholders propose vehicle permit rules that create two types of permits: a Type 1 permit for vehicles that have a safety partition, and a Type 2 permit for vehicles that do not. Type 1 vehicles must have a partition that is permanently installed to prevent its unauthorized removal and to protect the staff and clients.³⁴

Engaged stakeholders support this proposed rule. The Department has not received any negative feedback concerning the Type 1 and Type 2 permitting construct that it proposes in these rules.

Part 4. Complaints

The proposed rules require a county to create and implement a comprehensive written complaint and investigation policy that addresses complaints made against licensed secure transportation services, unlicensed services, and unpermitted vehicles in a timely manner. The purpose of the policy is to ensure that a filed complaint will be appropriately investigated, that all relevant regulatory agencies will be made aware of the allegations in case other actions are required, and that the complaint is resolved in a timely fashion.³⁵ Rules of this kind are typically included in the Division's regulations. The Department is not aware of any stakeholder objections to these provisions.

Part 5. Denial, Revocation, or Suspension of Licensure and/or Vehicle Permits

Part 5 identifies the types of licensing actions a county's board of commissioners may take against a secure transportation service's license or vehicle permit(s) if the service violates these rules. The actions range from a temporary suspension to permanent revocation of a license and/or permit and are modelled after the ground ambulance statutory requirements. Stakeholders do not object to these proposed rules which, like the complaint provisions, are typically found in regulation.

Part 6. Data Collection and Reporting Requirements

Section 25-3.5-311(1)(e), C.R.S. requires the Board to adopt rules concerning "data collection and reporting on utilization to the department by a licensee." Proposed Part 6.2 establishes categories of aggregate, de-identified data that each licensed secure transportation service must submit to the Department on an annual basis. Beginning January 1, 2023, each licensed service will collect the required data and submit it to the Department on March 1, 2024. Section 25.3.5-313, C.R.S. mandates that the Department make the data available to the public annually. Stakeholders generally appear to support the data collection rules.

³⁴ Parts 3.4(B) and 3.3(A)(10)(d).

³⁵ See Part 4.

Part 7. Staffing Requirements

In general, the rules propose three staffing and training classifications for secure transportation service staff who are engaged in transporting individuals with behavioral health crises: (1) those who have **direct client contact**; (2) those who provide **direct client support**; and (3) those who **apply individual restraints**.³⁶

Direct client contact “means any staff member who interacts directly with clients either before, during, or after the secure transportation service . . .” This may include the driver.³⁷ On the other hand, direct client support staff comes into direct contact with clients **and** is qualified and “assigned to provide secure transportation services to individuals experiencing a behavioral health crisis.”³⁸ Physical restraints may only be applied by direct client support staff.³⁹

All staff must, at a minimum, be trained in cultural competencies, verbal de-escalation, trauma-informed care, and other pertinent client-related and operational topics.⁴⁰ Direct client support staff must receive additional training in mental health first aid, basic first aid, cardiopulmonary resuscitation (CPR), and care of clients with substance use disorders.⁴¹ Finally, direct client support staff who apply physical restraints must complete further training concerning the circumstances and protocols governing the permissible and safe application of individual physical restraint during secure transport in accordance with these rules.⁴²

The stakeholders who have engaged with the Department generally support these staff classifications and their related training requirements.

Secure Transportation Staffing Requirements

Individual Transports

As noted, the Department discerned that staffing requirements are impacted by the vehicle design (partitioned or non-partitioned), as well as the number of clients being transported. The proposed rules therefore require the following staffing for individual transports, depending on the type of permitted vehicle employed:

- A Type 1 vehicle (partitioned) used to transport a single client must be staffed with one person trained and certified to provide direct client support. This staff member may be the driver.⁴³
- A Type 2 vehicle (non-partitioned) used to transport a single client must have two staff members on board, both of whom must be trained and certified for direct client contact. The staff member who is not the driver must also be trained and certified to provide direct client support.⁴⁴

The Department formulated this proposed staffing rule after weighing client safety considerations against stakeholders’ staffing concerns. The Department believes that the

³⁶ Part 7.7(A)(1)-(3).

³⁷ Part 2.7.

³⁸ Part 2.8.

³⁹ Part 8.2(B)(1).

⁴⁰ Part 7.7(A)(1).

⁴¹ Part 7.7(A)(2).

⁴² Part 7.7(A)(3).

⁴³ Part 7.6(A)(2)(a).

⁴⁴ Part 7.6(A)(3)(a).

proposed staffing rule adequately protects client safety. The stakeholders who have engaged with the Department agree and do not object to these staffing requirements.

Multiple Transports

The proposed rules prohibit a secure transportation service from transporting more than one client at a time, with one exception. Part 8.4 allows multiple clients to be transported in one vehicle for inter-facility transports if certain assessment and staffing conditions are met.

Assessment. For each individual included in a multiple transport, the treating provider at the sending facility must assess their patient and provide behavioral and medical clearance for the client before transport. This requires the treating provider to determine that the client is behaviorally and medically stabilized, has a low probability of behavioral and medical destabilization, does not require physical restraint, and is an appropriate candidate for transport with one or more people.⁴⁵ Moreover, the client must consent to be transported with others who have received the same clearance.⁴⁶

Staffing. A Type 1 partitioned vehicle that transports more than one client must assign one staff member who is trained and certified as direct client support staff to each client passenger, creating a 1:1 ratio of client to direct client support staff member. The driver of the vehicle, if appropriately trained and certified as a driver and direct client support staff, may count towards the required staffing level for multiple transports in a Type 1 vehicle.⁴⁷

If a non-partitioned vehicle with a Type 2 permit is used to transport more than one client, a 1:1 direct client support staff to client passenger ratio must be maintained during the transport. The driver of the vehicle cannot be assigned responsibility for a client passenger and is not included in the staffing ratio requirements.⁴⁸

The Department's proposed multiple transport staffing requirements intend to highlight client and staff safety in circumstances in which individuals who are experiencing behavioral health crises are sharing secure transportation, sometimes over long distances and extended periods of time. None of the engaged stakeholders object to these proposed staffing requirements. However, the Department has received anecdotal evidence that one or more secure transportation services, or licensed ground ambulance agencies that act as secure transportation services, may routinely provide secure transportation services to multiple clients in one vehicle staffed only by a driver. If that is the case, the Department anticipates that those stakeholders might object to the single and multiple transport staffing requirements as onerous.

Required Staffing of Organizational Positions

The proposed rule requires a secure transportation service to employ a qualified person or persons to fulfill the roles of manager and administrator.⁴⁹ The manager is responsible for day-to-day operations, including staff supervision, training, and quality management program duties, while the administrator's duties focus on the overall operation and oversight of the service's business functions. Recognizing that smaller services may not have the need or resources to employ an administrator and manager, the proposed rules permit both duties to

⁴⁵ Part 8.4(A)-(C).

⁴⁶ Part 8.4(E).

⁴⁷ Part 7.6(A)(2)(b).

⁴⁸ Part 7.6(A)(3)(b).

⁴⁹ Part 7.1.

be performed by the same person.⁵⁰ Alternatively, the owner of the service may perform these tasks and fulfill these roles if the owner meets the regulatory requirements.⁵¹

The manager and administrator must satisfy minimum education and experience qualifications that are enumerated in Part 7.1, including passing a background check that is administered by the owner or service.⁵² In fact, the county must ensure that secure transportation services implement a policy and procedure that requires each existing and prospective staff member pass a background check before assuming responsibilities.⁵³ If the background check reveals prior convictions of a violent, fraudulent, or abusive nature, the manager or administrator must determine the potential impact of this information on client safety and, if the person is hired, document both the rationale for employment and the plan to provide adequate supervision.⁵⁴

Stakeholders agree with these organizational position criteria. The Department has learned that secure transportation services already perform pre-employment background checks.

Part 8. Clinical, Medical, and Operating Standards and Procedures

Part 8.1 establishes the parameters for secure transportation. Secure transportation may be provided to a client who: (1) is experiencing a behavioral health crisis, and (2) is in need of secure transportation to a health facility, and (3) does not require medical treatment, monitoring, or chemical restraint during transport.

Part 8.2 requires all services to develop and implement policies and procedures that address important issues such as the assessment of client needs before and during transport, confirmation of the receiving facility's acceptance of the client, client pickup and drop-off criteria, and compliance with client, staff, and vehicle design safety standards. This part also requires Class A licensees that may apply physical restraint to develop additional policies and procedures concerning the safe and lawful application of individual physical restraint.

The stakeholders strongly agree with the parameters that prohibit secure transportation services from rendering any kind of medical treatment, monitoring, or chemical restraint during transport. They also support the objectives that the policies and procedures address.

Part 9. Client Rights

Part 9 of the proposed rule sets forth the counties' duty to require secure transportation services to develop and provide a written copy of minimum client rights, as enumerated in rule, to each client who receives secure transport. Counties must also ensure that secure transportation services develop and implement policies and procedures to investigate, report, and discipline any proven allegations of client right violations.

Part 10. Quality Management Program

The final Part 10 incorporates minimum standards for the statutorily-mandated Quality Management Program (QMP) that counties must require secure transportation services to develop and implement. Recognizing that services will range from small to large, the Department requires only that each service's QMP "is appropriate to the size and type of the

⁵⁰ Part 7.4.

⁵¹ See Part 2.13.

⁵² Part 7.1(E).

⁵³ Part 7.6(C).

⁵⁴ Part 7.6(C)(1).

service, . . .”⁵⁵ Each program must incorporate “a plan that evaluates the quality of client care and safety,” and include policies and procedures for minimum components of secure transportation quality management plans.⁵⁶ These minimum components focus upon secure transportation service operations, but the minimum requirements mirror similar quality management plans required of other Department-regulated entities.

Specific Statutory Authority.

Statutes that require or authorize rulemaking:
Section 25-3.5-311, C.R.S.

Other relevant statutes:
Section 25-3.5-103, C.R.S.
Section 25-3.5-309, C.R.S.
Section 25-3.5-310, C.R.S.
Section 25-3.5-313, C.R.S.

Is this rulemaking due to a change in state statute?

Yes, the bill number is House Bill 21–1085. Rules are authorized
 required.
 No

Does this rulemaking include proposed rule language that incorporate materials by reference?

Yes URLs:

<https://www.ecfr.gov/current/title-49/subtitle-B/chapter-V/part-567/section-567.4>;
<https://www.ecfr.gov/current/title-49/subtitle-B/chapter-V/part-567/section-567.5>;
<https://www.ecfr.gov/current/title-49/subtitle-B/chapter-V/part-567/section-567.7>;
and <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-A/part-2>;

No

Does this rulemaking include proposed rule language to create or modify fines or fees?

Yes
 No

Does the proposed rule language create (or increase) a state mandate on local government?

No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

Yes.

⁵⁵ Part 10.1.

⁵⁶ Ibid.

This rule includes a new state mandate or increases the level of service required to comply with an existing state mandate, and local government will not be reimbursed for the costs associated with the new mandate or increase in service. The state mandate is categorized as:

- Necessitated by federal law, state law, or a court order
- Caused by the State's participation in an optional federal program
- Imposed by the sole discretion of a Department

Has an elected official or other representatives of local governments disagreed with this categorization of the mandate? Yes No. If "yes," please explain why there is disagreement in the categorization.

Please elaborate as to why a rule that contains a state mandate on local government is necessary.

The General Assembly created this division of responsibility between the counties and the Department in House Bill 21-1085 based on the existing ground ambulance laws (See Section 25-3.5-301-308, C.R.S.). The Department and interested stakeholders developed the rule proposal; the State Board of Health considers and adopts the minimum standards; and the counties are responsible for licensing the secure transportation services based in their counties and enforcing the applicable regulations.

REGULATORY ANALYSIS
for New Rule
6 CCR 1011-4, Standards for Secure Transportation Services

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/CLG/S/B
Counties that will license secure transportation services and permit secure transportation vehicles	64	CLG
Licensed ground ambulance agencies that provide secure transportation services	Unknown	C
Behavioral health providers and entities that provide secure transportation services	Unknown	C
Security companies that provide secure transportation services	Unknown	C
Licensed ground ambulance agencies that do not provide secure transportation services	Unknown	S
Law enforcement agencies/county sheriffs	Unknown	S
Licensed health facilities including hospitals, psychiatric hospitals, and behavioral health entities (walk-in crisis centers, community mental health centers, residential treatment facilities, etc.)	Unknown	S
Colorado Counties, Inc. (CCI)	61 member counties	S
Mental Health Colorado	Unknown	S
Individuals accessing behavioral health services in the state that need to be securely transported to a designated facility	Unknown	B

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

- C = individuals/entities that implement or apply the rule.
- CLG = local governments that must implement the rule in order to remain in compliance with the law.
- S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
- B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Economic outcomes

Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

C: Based on the statute, this rule will require providers of secure transportation services to be licensed in the county(ies) in which they pick up clients. In order to implement the minimum standards developed by the Colorado Department of Public Health and Environment (Department) and get licensed by the county in which they provide services, providers that are currently unregulated will incur additional costs to comply with the county and state rules. The secure transportation service will also have an increase in revenue from the Colorado Department of Health Care Policy and Financing (HCPF) reimbursement benefit that will be a part of this program. It is unknown whether the overall financial impacts will be positive, negative, or neutral.

CLG: The statute requires all counties to license secure transportation services and enforce the minimum standards set by the Department. As stated in the fiscal note, the counties' revenue and expenditures will increase. Local revenue will increase as counties are directed to set fees to cover the cost of issuing and renewing any licenses and vehicle permits. Local expenditures will increase to create application and renewal procedures for licenses and vehicle permits, process paperwork, investigate any complaints, and monitor and ensure compliance. The statute requires, and the fiscal note assumes, that counties will set their fees to cover any direct and indirect costs of program administration. The amount of the fees will vary by county depending on the number of secure transportation services in a county. Overall there should be a net neutral financial impact to the counties.

Also stated in the fiscal note, to the extent that sheriffs and other law enforcement agencies are no longer required to provide secure transportation, costs to county sheriffs will decrease. The amount of the decrease will vary by county and will be based on the number of individuals who require secure transportation in the county and the number of miles driven to get an individual to treatment.

Please describe any anticipated financial costs or benefits to these individuals/entities.

S: Similar to the reduction in costs to the county sheriffs and law enforcement, there will also be a reduction in costs for current licensed ground ambulance agencies who provide secure transport even when it is not the most appropriate mechanism. The amount of decrease will vary by county based on the number of individuals who require secure transportation in the county and the number of miles driven to get an individual to treatment. Further, licensed ground ambulance agencies will now be able to seek reimbursement from HCPF to cover these transports as long as the licensed ground ambulance agency meets the minimum standards.

B: Regulating secure transportation services will allow for greater access to care for individuals who are experiencing a behavioral health crisis and are in need of urgent secure transportation services. Oftentimes these patients end up waiting in emergency rooms for extended periods of time while waiting for transport to a more appropriate

level of care. This rule will increase access to services for individuals experiencing a behavioral health crisis by improving the efficiency of urgent secure transportation for clients to the most appropriate setting. This in and of itself will lead to improved patient outcomes and will reduce patient costs since there will be more secure transportation services available to transport individuals who would have been transported by more expensive ground ambulance services in the past.

Non-economic outcomes

Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

C: Those entities currently providing secure transportation services will now be required to go through the county licensing process and adhere to the minimum standards developed by the Department, as contained in the proposed rules. This will require providers to improve and expand their current administrative and operational processes, staff training and qualifications, data and reporting, etc. In the short-term, this may create an additional burden on the service providers to stand up the service in compliance with the new rules; however, in the intermediate and long-term it will lead to a more effective system and improve services to clients across the state.

CLG: Counties currently license ground ambulance agencies, and thus have the infrastructure in place to establish this new program. For smaller and/or rural counties across the state, developing the application and licensure process may create an additional burden on staff tasked with setting up this program. However, there are measures in place to support these counties to ensure that they have what they need, including allowing reciprocal licensing agreements with neighboring counties, as well as technical assistance and support that will be provided by the Department.

S: Licensed ground ambulance agencies and law enforcement agencies often provide this service to individuals experiencing a behavioral health crisis. With the development and implementation of a licensed secure transportation service, the licensed ground ambulance and law enforcement agencies will no longer have to respond to as many calls which can then be diverted to more appropriate secure transportation providers. This frees up resources and capacity for licensed ground ambulance and law enforcement agencies to address and respond to the the myriad of calls they receive.

B: The greatest favorable impacts of the proposed rule will be for those individuals experiencing a behavioral health crisis and who are in need of urgent secure transportation services. With this program in place, clients will receive more appropriate and efficient services in a trauma-informed setting. The minimum standards developed by the Department ensure the health, safety, and welfare of those receiving services and increase protections for clients, mechanisms for quality improvement, and staff training that ensures client safety, all of which will lead to improved care and improved health outcomes.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

The county is required to implement the program once it is in place. Meanwhile the Department has an obligation to collect data on utilization from secure transportation services and make data publicly available annually. This will result in minor administrative costs to develop and run this system; however, these costs will be absorbed by the Division's current capacity and resources.

Anticipated CDPHE Revenues: N/A

- B. Anticipated personal services, operating costs or other expenditures by another state agency: N/A

Anticipated Revenues for another state agency: N/A

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

- Comply with a statutory mandate to promulgate rules.
- Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
- Maintain alignment with other states or national standards.
- Implement a Regulatory Efficiency Review (rule review) result
- Improve public and environmental health practice.
- Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

<p>1. Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO₂e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO₂e per year by June 30, 2020 and to 113.144 million metric tons of CO₂e by June 30, 2023.</p> <ul style="list-style-type: none"><input type="checkbox"/> Contributes to the blueprint for pollution reduction<input type="checkbox"/> Reduces carbon dioxide from transportation<input type="checkbox"/> Reduces methane emissions from oil and gas industry<input type="checkbox"/> Reduces carbon dioxide emissions from electricity sector
<p>2. Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023.</p> <ul style="list-style-type: none"><input type="checkbox"/> Reduces volatile organic compounds (VOC) and oxides of nitrogen (NO_x) from the oil and gas industry.<input type="checkbox"/> Supports local agencies and COGCC in oil and gas regulations.<input type="checkbox"/> Reduces VOC and NO_x emissions from non-oil and gas contributors
<p>3. Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023.</p>

<ul style="list-style-type: none"> <input type="checkbox"/> Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes. <input type="checkbox"/> Increases physical activity by promoting local and state policies to improve active transportation and access to recreation. <input type="checkbox"/> Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.
<p>4. Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Ensures access to breastfeeding-friendly environments.
<p>5. Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023. <input type="checkbox"/> Performs targeted programming to increase immunization rates. <input type="checkbox"/> Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).
<p>6. Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Creates a roadmap to address suicide in Colorado. <input type="checkbox"/> Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate. <input checked="" type="checkbox"/> Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries. <input checked="" type="checkbox"/> Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.
<p>7. The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conducts a gap assessment. <input type="checkbox"/> Updates existing plans to address identified gaps. <input type="checkbox"/> Develops and conducts various exercises to close gaps.
<p>8. For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident.

<input type="checkbox"/> Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment. <input type="checkbox"/> Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.
<p>9. 100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023.</p> <input type="checkbox"/> Implements the CDPHE Digital Transformation Plan. <input type="checkbox"/> Optimizes processes prior to digitizing them. <input type="checkbox"/> Improves data dissemination and interoperability methods and timeliness.
<p>10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.</p> <input type="checkbox"/> Reduces emissions from employee commuting <input type="checkbox"/> Reduces emissions from CDPHE operations
<p>11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.</p> <input type="checkbox"/> Used a budget equity assessment

X Advance CDPHE Division-level strategic priorities.

- Regulatory development

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

Inaction will result in being out of compliance with statute. Since statute requires that secure transportation services must be licensed to provide such services beginning January 1, 2023, the inaction would be devastating with current, unregulated providers no longer able to operate.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

This rulemaking is proposed as the only statutorily allowable method for achieving the purpose of statute. The Department worked diligently with stakeholders to develop minimum standards for secure transportation services that balance ensuring the health, safety, and welfare of individuals accessing services with the feasibility of implementation. The benefits, risks, and costs of these proposed rules were compared to the costs and benefits of other options, and robust discussions were had with stakeholders when any concerns regarding costs were shared. The proposed rules provide the most benefit for the least amount of cost, are the minimum standards necessary, and are the most feasible manner to achieve compliance with statute.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

This rulemaking is mandated in statute as is the structure of the licensing and permitting processes to be carried out at the county level. As such, there are no alternatives to rulemaking. The Department worked diligently with the stakeholder group to inform the minimum standards, and when possible, worked to achieve consensus across the diverse set of stakeholders that represent three industries that operate and function very differently. When consensus was not possible, the Department used the following “filters” to prioritize standards for inclusion or exclusion from this packet:

- 1) Putting client safety, and also safety of providers, first;
- 2) Using established regulation as a pattern when possible;
- 3) Establishing standards that do not limit the availability of services and which accommodate the diverse industry; and
- 4) Reducing the regulatory burden by omitting standards that did not enhance safety or promote access.

While there were no major objections to the proposed rules presented herein, there was robust discussion on many topics. The most pertinent discussions focused on the following:

- Stakeholders raised concerns about the statutory requirement that secure transportation services must be licensed in every county in which their service is based, i.e., every county in which the secure transportation originates. The Department responded to this concern by proposing language at Part 3.1(B)(1) that allows counties to enter into reciprocal licensing and permitting agreements that would allow secure transportation services licensed in one county to provide secure transportation in other counties, similar to agreements regarding ground ambulance service. Stakeholders therefore understand that secure transportation services will not have to become licensed in multiple counties if the county in which they are licensed enters into reciprocity agreements.

The Department also met with various county commissioners and CCI to discuss county duties. The majority of county commissioners appear to support county regulation of secure transportation services. However, some rural county commissioners voiced concern about their duty to develop a licensure program for counties in which secure transportation services may never apply for licensure.

- A few stakeholders were concerned with the data collection requirements, and this became a robust discussion both internally and with stakeholders. Ultimately, the Department plans to collect aggregate data on an annual basis to understand the utilization of secure transportation services, per the statutory requirement. Stakeholders generally agreed on the data being requested (Part 6.2); however, one stakeholder questioned the ability of the service to collect demographic data. Others agreed that this data can be easily collected from the client.

- Many of the current providers never use physical restraints when providing secure transportation services. For these providers, if a client is in need of physical restraint, the client then receives transport from an ambulance, security company, or law enforcement. However, there are current providers who do utilize physical restraints, albeit rarely, in their operational practices. The result of significant feedback from stakeholders was to develop a tiered licensing system where the secure transportation service receives either a Class A license which allows the use of physical restraint, or a Class B license which does not allow the use of physical restraint during transport. The Department then created additional rules for Class A licensees that are embedded in the applicable sections of the rules. These additional rules address safety and training requirements associated with the use of restraints.
- When discussing restraint, it was important to distinguish the type of restraint currently being used and what the minimum standards should be for secure transportation services utilizing physical restraint. “Physical restraint” was specifically mentioned in House Bill 21-1085, however, after discussion with stakeholders, it became clear that what was described as “physical restraint” in this portion of statute is actually the definition of “mechanical restraint” pursuant to Section 26-20-102, C.R.S. Since the Department did not want to conflict with the Restraint Act, the proposed rules define chemical restraint pursuant to Section 26-20-102, C.R.S. and “physical restraint,” for the purpose of this chapter only, with the definition of mechanical restraint pursuant to Section 26-20-102, C.R.S.

It was determined early on in the stakeholder process, both from the subject matter experts at the Department as well as the stakeholders, that chemical restraint will never be allowed during secure transport, and if chemical restraint is required for an individual, then a medical transport will be necessary.

- Licensed ground ambulance staffing requires one driver and one emergency medical service (EMS) provider in the vehicle. This was the initial staffing model developed for secure transportation services and shared with stakeholders. It was brought to the Department’s attention that many providers transport individuals with one staff person currently. After a robust discussion to better understand the many facets of secure transport, and to ensure the health, safety, and welfare of both the clients and providers of the services, a tiered vehicle permit system was developed to delineate a Type 1 vehicle which has a safety partition and a Type 2 vehicle which does not have a safety partition. Vehicle staffing is delineated based on the type of vehicle permit, where a Type 1 vehicle requires only one staff person that is both the driver and the staff person who meets the minimum qualifications to provide direct client support. A Type 2 vehicle must have two staff persons, the driver and a staff person who meets the minimum qualifications to provide direct client support.

One stakeholder requested the Department grant an exception in rule to the requirement that direct client support staff must receive additional first aid and cardiopulmonary resuscitation (CPR) training, pursuant to Part 7.7(A)(2), if the secure transportation service operates within ten (10) minutes of a

hospital. The Department considered the request but determined that some health care emergencies require immediate first aid attention despite a hospital's close proximity. The health and safety of clients and staff supports the requirement that direct client support staff must receive additional first aid training.

- Stakeholders generally agree with the list of minimum client rights listed in Part 9.1. A split in consensus developed regarding the proposed right that allows clients to have access to cell phones and basic comfort items during secure transport.⁵⁷ Some stakeholders advocate that client access to these items relieve anxiety, particularly during long transports, and argue that clients should be afforded reasonable access to these personal items. Others raise safety concerns, objecting that some clients can conceal items such as razor blades in cell phone covers and harm themselves or others. The Department has responded to this issue by formulating a rule that requires direct support staff to determine that the requested items do not pose a danger to the client or staff member, and to document any removal of personal items accordingly. As modified, the Department believes the provision balances safety concerns with client rights.
- Most stakeholders recognize the value of the Quality Management Program (QMP). However, one stakeholder commented that, to the extent licensed ground ambulance agencies must develop and implement a separate QMP for secure transportation services, the rule provisions are “cumbersome.” The Department disagrees. QMPs are included in rule because they are essential to improve the safety of secure transportation services and, by extension, the health and safety of Colorado consumers. Licensed ground ambulance agencies that seek reimbursement for secure transportation services must adhere to the QMP rule. And the proposed rule allows the service to design and implement a QMP that is appropriate to its size and type of service, thereby alleviating stakeholders of unnecessary burden.
- Reimbursement was brought up as a concern throughout the process, pertaining to minimum standards across all topics. The Department tried to address these concerns while ensuring the rules do not compromise the health, safety, and welfare of individuals receiving services. As two prime examples, only vehicles that are used by Class A agencies for physical restraint are required to be equipped with automated external defibrillators (AEDs), and Type 1 vehicles allow for reduced staffing.

Ultimately, reimbursement is outside of the Department's rulemaking authority and is a statutory requirement for HCPF to develop and implement, which will be done subsequent to the adoption of these proposed rules. Staff from HCPF's secure transportation service program participated in the Department's rule development process to ensure continuity across departments. The Department will also play an active role in HCPF's stakeholder process to develop a reimbursement benefit.

Throughout this process, the Department did its due diligence to research, follow up, and continue investigating any concerns or questions from stakeholders. This resulted

⁵⁷ Part 9.1(B).

in achieving consensus, or at least no major objections, to the final proposed rules. The final proposed rules balance current industry practices across the three diverse industries, statutory obligations, and ensuring the health, safety, and welfare of clients and providers of secure transportation services.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The Health Facilities and Emergency Medical Services Division (Division) reviewed several sources of information in the writing of these proposed rules, including: results of a four-part survey administered to the small work group to collect data directly from providers; organizational documents from current providers of secure transportation services; other states' regulatory and guidance materials as available, including Oregon and Utah; other Colorado agency resources and evaluations, including HCPF rules (10 CCR 2505-10), HCPF Non-Emergent Medical Transportation Vehicle Standards, and the Office of Behavioral Health (OBH) rules (2 CCR 502-1); and other Division facility and EMS rules.

STAKEHOLDER ENGAGEMENT
for New Rule
6 CCR 1011-4, Standards for Secure Transportation Services

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

Organization	Representative Name and Title (if known)
5D Shield	Joe Archuleta, Transport Supervisor
	Todd DeJong, CEO
AllHealth Network	Alli Briggs, Crisis Diversion
	Angelica Neuschaefer, Operations Manager, Acute Care Campus
	Lana Currance
Ambulnz Colorado	Candice Moncayo
	Royce Davis
American Medical Response (AMR)	Tom Anderson, Lead Operations Supervisor, Canon City
	Theresa Hall, Regional Director, Southern Colorado
Aurora Mental Health Center	Tricia Carson-Pelis
Axis Health System	Brian Ensign
	Haley Leonard
	Charlie Mathis, Regulatory Readiness Manager
Boulder Community Health	Chuck Merritt
	Michele Sternitzky, ACNO
CAREPOOL	Josh Massey
Centennial Mental Health	Cynthia Audia
Centura (Behavioral Health)	Brittney Jetton
Children’s Hospital Colorado	Alli Daley
Citadel Security	Brent Jagger
	Clayton Langston
City of Aurora	Courtney Tassin, Paramedic Co-responder Model Program Manager
Central Mountains RETAC	Sarah Weatherred
Colorado Department of Healthcare Policy and Financing (HCPF)	John Lentz
Colorado Department of Human Services (CDHS), Office of Behavioral Health (OBH)	Emily Richardson
	Mary Hoefler, Crisis Services Manager
	Megan Lee, Crisis Program Manager
	Ryan Templeton

Organization	Representative Name and Title (if known)
Colorado Department of Public Health and Environment (Department)	Amber Viitanen, Data Systems Section Manager
	Eileen Brown
	Eric Schmidt, EMTS Funding Section Manager
	Jane Flournoy, Behavioral Health Community Services Section Manager
	Jeff Beckman, Associate Division Director
	Kara Johnson-Hufford, Interim Deputy Division Director
	Michelle Reese, Senior Policy Advisor
Colorado Health Network Inc.	Lili Carrillo
Delta County Ambulance District	Rueben Farnsworth, Clinical/Operational Coordinator
Denver Health	Jackie Zheleznyak
	Lisa Ward
Denver Health Paramedics	Gary Bryskiewicz
Denver Indian Health and Family Services	Adrienne Maddux
Diversus Health	Jessie Spiers
	Ryan Smith
Eagle Valley Behavioral Health	Kala Bettis, Outreach Operations Manager
El Paso County Sheriff's Office	Carey Boelter, Behavioral Health Manager
Falck Rocky Mountain (Ambulance)	David Patterson
Foothills RETAC	Tom Candlin
Grand Junction Police Department Co-Responder Unit	Eric Wood
HealthONE Behavioral Health & Wellness Center	Genevieve Fraser
Heart of the Rockies Regional Medical Center, Salida, CO	Christine MacMillan
Jefferson Center	Tom Olbrich, Director of Acute Care Services
Larimer County HR	Nick Cole
Littleton Adventist Hospital	Jonathan Jemison Jr.
Mental Health Colorado	Lauren Snyder
North Range Behavioral Health	Dr. Bradley Crookston
Northeast Colorado RETAC	Jeff Schanhals
Northglenn Ambulance	Cathy Teter
Parkview Health System	Valerie Baughman, Director of Behavioral Health Services
Pioneers Medical	Liz Sellers
Platte Valley Fire Protection District	Barry Schaefer, Fire Chief
Poudre Fire Authority	Kevin Waters, Emergency Medical Service (EMS) Battalion Chief
San Luis Valley Behavioral Health Group	Jennifer Silva
	Tammy Obie
	Victoria Romero

Organization	Representative Name and Title (if known)
SEMTAC, EMSAC, and Ute Pass Paramedic Services	Tim Dienst
Solvista Health	Debbie Palmer Thomas, Director of Crisis Services
	Mandy Kaisner
Southeast Colorado Hospital	Cherilyn Wittler, EMS Director
Southwest Memorial Hospital and EMS	Scott Anderson
Summit County SMART Program	Daric Gutzwiller
SummitStone Health Partners	Cassie Damato
	Fran Keane-Foster
The Center for Mental Health	Angela Nock
	Ed Hagins
	Kiana Harris
	Shakira Berg, Quality Improvement Specialist
UCHealth	Brooke Hopkins
	Marcee Paul, Regulatory Standards Coordinator
	Mary Jo Hallaert
	Molly Halligan, Manager of Interfacility Transportation
	Ryan C. McLean, Senior Director of Pre-Hospital Care
	Sheryl Bardell, Coordinator of Regulatory Standards
	Suzanne Golden
	Cathy Trujillo (North Region)
Jarah Grashorn, CAC	
Ute Pass Regional Health Service District	James McLaughlin
West Pines Behavioral Health	Karen Masters
West Pines Behavioral Health/SCL Health	Glenn Most
	Andrea Wood
	Andrew Cooper
	Britney Guccini
	Chris Rowland
	Christine Lanham
	Kim Collins
	LeAnna Pacheco
	M.C. Scott
	Scott Phillips
	Victoria Cordova

The Department established contact with a variety of stakeholders in what is currently a very diverse industry, encompassing at a minimum: licensed ground ambulance agencies, behavioral health facilities and programs, and security companies that contract to provide

secure transportation. Establishing contact with licensed ground ambulance agencies was relatively easy as those agencies already report data to the Department and thus are known entities. Behavioral health programs were also relatively easy to contact as some are currently regulated by the Department and others are known or regulated entities for other State agency partners. These entities were also represented by their trade organizations, EMSAC (the Emergency Medical Services Association of Colorado) and by Mental Health Colorado. Security companies were more challenging to engage since they are currently unregulated in terms of the secure transport services they provide.

Stakeholder meetings were held monthly between September 2021 and March 2022, with one meeting cancelled in December to focus on meeting with the small work group. Meetings were scheduled for three hours each, were open to the public, and were held remotely via Zoom. 108 unique participants attended stakeholder and small work group meetings over the course of the process. These meetings focused on developing consensus language, when possible, regarding minimum standards for this newly regulated service type. Meetings were advertised through the interested parties listserv, the EMTS On the Go weekly notice, the portal messaging system to impacted health facilities, and on the Department's website [here](#).

In addition, to meet the tight statutory deadlines established in the legislation, the Department convened a small work group that met via Zoom five times, for an hour and a half each, from November through January, to solicit detailed feedback on specific topics, discuss current and best practices in providing secure transportation services, and generate ideas for potential regulations. This small work group consisted of 20 unique participants, the majority of whom represent providers across the diverse industries which currently provide secure transportation services in Colorado. Topics included: insurance, vehicle design and safety standards, staffing and training requirements, operating procedures, potential use of physical restraints, chemical restraints, equipment and supplies, transport of pediatric clients, client rights, quality management, communication systems, and organizational structure.

The Department also employed online surveys after each small work group meeting to determine details regarding current practice to inform rule development. Since these are three very different industries, it was important to determine when, where, and how the currently unregulated secure transports are taking place and to move from that starting point to minimum standards.

The statute directs the Department to create minimum standards; however, the actual licensing and permitting process takes place at the county level. Since this regulatory process has significant impact on county government by creating minimum standards which must be adopted and enforced at the county level, the Department has also engaged in discussions with Colorado Counties, Inc. (CCI). These discussions include both the rulemaking and further support to assist counties in developing appropriate secure transportation licensure and permitting processes.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

___ Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department’s efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

This rulemaking is mandated in statute as is the structure of the licensing and permitting processes which will be carried out at the county level. As such, there are no alternatives to rulemaking. However, the Department has relied heavily on stakeholder input to develop the standards that are presented herein.

Also, since secure transportation is a relatively new concept, the Department has had few examples from other states to provide insight. Thus, the Department has relied heavily on the experience of current providers of this service to look for common elements to use as base standards. In addition, the Department has used HCPF’s non-emergent medical transportation standards as another source of information and has suggested adopting some of those same standards where they seemed applicable. The Department researched best practices and national guidelines where available.

Since the current providers of secure transportation services are so diverse, there has not always been agreement on what the most appropriate standards are. The Department started with the statutorily required subjects for discussion. Both the small work group and the larger stakeholder meetings had extensive discussions on the following topics: vehicle safety and design standards, general liability insurance, service staffing requirements, minimum staff qualifications and training, operating procedures, including the use of physical restraints, clinical and medical standards, quality management, client rights, and the communication systems in place.

Please also see the response in Question 6 in the Regulatory Analysis.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking:

The proposed rule holds all licensed secure transportation services to the same minimum standards, regardless of location or population served. This will create more equitable access to services across the state, since all providers will be held to the same standards. This rulemaking will improve the experience and outcomes for a vulnerable population of individuals accessing behavioral health services during a crisis. Language was included throughout the rule to ensure access to trauma-informed care, appropriate training for all staff members who provide direct client care and support, robust client rights, and quality improvement to make sure that the services provided are meeting client needs.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

X	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.	X	Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of
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			care for unserved or underserved populations.
X	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.		Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.
	Improves access to food and healthy food options.		Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.	X	Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.	X	Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.		Ensures a competent public and environmental health workforce or health care workforce.
X	Other: Complies with Department's obligation to ensure all regulations are consistent with state law.		Other: _____ _____

An Act

HOUSE BILL 21-1085

BY REPRESENTATIVE(S) McCluskie and Larson, Amabile, Bernett, Bird, Boesenecker, Cutter, Duran, Esgar, Exum, Froelich, Gray, Hooton, Jackson, Jodeh, Lontine, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Roberts, Sirota, Snyder, Tipper, Titone, Valdez A., Valdez D., Weissman, Young, Garnett;
also SENATOR(S) Bridges and Smallwood, Buckner, Danielson, Ginal, Gonzales, Hansen, Kirkmeyer, Kolker, Lee, Moreno, Pettersen, Priola, Rankin, Simpson, Sonnenberg, Story, Winter, Garcia.

CONCERNING SECURE TRANSPORTATION FOR AN INDIVIDUAL IN BEHAVIORAL HEALTH CRISIS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-3.5-103, **add** (3.3), (8.1), and (11.4) as follows:

25-3.5-103. Definitions. As used in this article 3.5, unless the context otherwise requires:

(3.3) "BEHAVIORAL HEALTH" HAS THE SAME MEANING AS SET FORTH

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

IN SECTION 25-27.6-102 (4).

(8.1) "EMERGENCY MEDICAL SERVICES FACILITY" MEANS A LICENSED OR CERTIFIED FACILITY THAT PROVIDES EMERGENCY MEDICAL SERVICES, INCLUDING BUT NOT LIMITED TO HOSPITALS, HOSPITAL UNITS AS DEFINED IN SECTION 25-3-101, FREESTANDING EMERGENCY DEPARTMENTS AS DEFINED IN SECTION 25-1.5-114, PSYCHIATRIC HOSPITALS, COMMUNITY CLINICS, COMMUNITY MENTAL HEALTH CENTERS, AND ACUTE TREATMENT UNITS.

(11.4) (a) "SECURE TRANSPORTATION" OR "SECURE TRANSPORTATION SERVICES" MEANS URGENT TRANSPORTATION SERVICES PROVIDED TO INDIVIDUALS EXPERIENCING A BEHAVIORAL HEALTH CRISIS.

(b) SECURE TRANSPORTATION INCLUDES:

(I) FOR AN INDIVIDUAL BEING TRANSPORTED PURSUANT TO SECTION 27-65-103 OR 27-65-105 (1), TRANSPORTATION FROM THE COMMUNITY TO A FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES FOR TREATMENT AND EVALUATION PURSUANT TO ARTICLE 65 OF TITLE 27;

(II) FOR AN INDIVIDUAL IN NEED OF SERVICES PURSUANT TO ARTICLES 81 AND 82 OF TITLE 27, TRANSPORTATION FROM ANY LOCATION TO AN APPROVED TREATMENT FACILITY, AS DESCRIBED IN SECTION 27-81-106, OR A WALK-IN CRISIS CENTER THAT IS OPERATING AS PART OF THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM;

(III) FOR AN INDIVIDUAL WHO IS RECEIVING TRANSPORTATION ACROSS LEVELS OF CARE OR TO A HIGHER LEVEL OF CARE, TRANSPORTATION BETWEEN ANY OF THE FOLLOWING TYPES OF FACILITIES:

(A) AN EMERGENCY MEDICAL SERVICES FACILITY;

(B) A FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES FOR TREATMENT AND EVALUATION PURSUANT TO ARTICLE 65 OF TITLE 27;

(C) AN APPROVED TREATMENT FACILITY, AS DESCRIBED IN SECTION 27-81-106;

(D) A WALK-IN CRISIS CENTER THAT IS OPERATING AS PART OF THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM; OR

(E) A BEHAVIORAL HEALTH ENTITY LICENSED PURSUANT TO SECTION 25-27.6-106 WITH A CURRENT TWENTY-FOUR-HOUR ENDORSEMENT.

(c) "SECURE TRANSPORTATION" DOES NOT INCLUDE URGENT TRANSPORTATION SERVICES PROVIDED BY LAW ENFORCEMENT OR PERSONNEL EMPLOYED BY OR CONTRACTED WITH A LAW ENFORCEMENT AGENCY TO INDIVIDUALS EXPERIENCING A BEHAVIORAL HEALTH CRISIS; EXCEPT THAT ANY MEMBER OF A CO-RESPONDER TEAM WHO IS NOT LAW ENFORCEMENT OR PERSONNEL EMPLOYED BY OR CONTRACTED WITH A LAW ENFORCEMENT AGENCY AND WHO HOLDS A VALID LICENSE FOR SECURE TRANSPORTATION BY THE COUNTY IN WHICH THE SECURE TRANSPORTATION ORIGINATES, IN A VEHICLE WITH A VALID PERMIT ISSUED BY THE COUNTY IN WHICH THE SECURE TRANSPORTATION ORIGINATES, AND WHICH MEETS THE MINIMUM REQUIREMENTS FOR SECURE TRANSPORTATION ESTABLISHED BY RULE PURSUANT TO SECTION 25-3.5-311 MAY PROVIDE URGENT SECURE TRANSPORTATION SERVICES.

SECTION 2. In Colorado Revised Statutes, **add 25-3.5-309, 25-3.5-310, 25-3.5-311, 25-3.5-312, and 25-3.5-313** as follows:

25-3.5-309. Secure transportation - license required - fees - exceptions. (1) (a) AFTER JANUARY 1, 2023, AN ENTITY SHALL NOT PROVIDE PUBLIC OR PRIVATE SECURE TRANSPORTATION SERVICES, AS DEFINED IN SECTION 25-3.5-103 (11.4), IN THIS STATE UNLESS THAT ENTITY HOLDS A VALID LICENSE ISSUED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED; EXCEPT THAT ENTITIES DESCRIBED IN SUBSECTION (2) OF THIS SECTION MAY PROVIDE SECURE TRANSPORTATION SERVICES.

(b) LICENSES, PERMITS, AND RENEWALS ISSUED PURSUANT TO THIS SECTION AND SECTION 25-3.5-310 REQUIRE A FEE IN AN AMOUNT TO BE DETERMINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED TO REFLECT THE DIRECT AND INDIRECT COSTS INCURRED BY THE COUNTY IN IMPLEMENTING LICENSES FOR SECURE TRANSPORTATION.

(2) AMBULANCE AGENCIES, TRANSPORTATION SERVICES PROVIDED

BY THE OFFICE OF BEHAVIORAL HEALTH WITHIN THE STATE DEPARTMENT OF HUMAN SERVICES, EMERGENCY SERVICE PATROLS ESTABLISHED PURSUANT TO SECTION 27-81-115, AND LAW ENFORCEMENT MAY PROVIDE SECURE TRANSPORTATION SERVICES TO AN INDIVIDUAL IN NEED OF URGENT BEHAVIORAL HEALTH CARE.

(3) AN AMBULANCE AGENCY IS ELIGIBLE TO RECEIVE REIMBURSEMENT PURSUANT TO SECTION 25.5-5-328 AND IS EXEMPT FROM ADDITIONAL LICENSING REQUIREMENTS IF THE AGENCY MEETS THE REQUIREMENTS FOR SECURE TRANSPORTATION AS ESTABLISHED BY RULE PURSUANT TO SECTION 25-3.5-311.

(4) EACH VEHICLE OPERATED BY A SECURE TRANSPORTATION LICENSEE MUST BE ISSUED A SEPARATE PERMIT BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED UPON POSITIVE REVIEW PURSUANT TO SECTION 25-3.5-310.

25-3.5-310. Secure transportation - issuance of licenses and permits - term - requirements. (1) (a) AFTER RECEIPT OF AN ORIGINAL APPLICATION FOR A LICENSE TO PROVIDE PUBLIC OR PRIVATE SECURE TRANSPORTATION SERVICES, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED SHALL REVIEW THE APPLICATION, THE APPLICANT'S RECORD, AND THE APPLICANT'S EQUIPMENT, AS WELL AS THE APPLICANT'S TRAINING AND OPERATING PROCEDURES. IN ORDER TO BE APPROVED FOR A LICENSE, THE APPLICANT MUST PROVIDE EVIDENCE THAT THE APPLICANT'S EQUIPMENT AND TRAINING AND OPERATING PROCEDURES MEET OR EXCEED THE MINIMUM REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF HEALTH PURSUANT TO SECTION 25-3.5-311. THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY MAY IMPOSE, BY RESOLUTION, ADDITIONAL REQUIREMENTS FOR SECURE TRANSPORTATION THAT IS BASED IN THAT COUNTY.

(b) IF AN APPLICANT IS APPROVED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED SHALL ISSUE A LICENSE, VALID FOR THREE YEARS, TO THE APPLICANT TO PROVIDE SECURE TRANSPORTATION SERVICES. THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED SHALL ALSO ISSUE A PERMIT, VALID FOR TWELVE MONTHS AFTER THE DATE OF ISSUANCE, FOR EACH VEHICLE USED BY THE LICENSEE IF THE VEHICLES

AND EQUIPMENT MEET OR EXCEED THE MINIMUM REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF HEALTH PURSUANT TO SECTION 25-3.5-311.

(2) ANY LICENSE OR PERMIT ISSUED PURSUANT TO THIS SECTION, UNLESS REVOKED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED, MAY BE RENEWED BY FILING AN APPLICATION, AS APPLICABLE FOR AN ORIGINAL LICENSE OR PERMIT. APPLICATIONS FOR PERMIT RENEWAL MUST BE FILED ANNUALLY, BUT NOT LESS THAN THIRTY DAYS BEFORE THE DATE THE PERMIT EXPIRES.

(3) A LICENSEE OR PERMIT HOLDER SHALL NOT SELL, ASSIGN, OR OTHERWISE TRANSFER A LICENSE OR PERMIT ISSUED PURSUANT TO THIS SECTION.

25-3.5-311. Secure transportation - rules. (1) ON OR BEFORE JULY 1, 2022, THE STATE BOARD OF HEALTH SHALL ADOPT RULES ESTABLISHING THE MINIMUM REQUIREMENTS FOR SECURE TRANSPORTATION SERVICES LICENSING, INCLUDING BUT NOT LIMITED TO:

(a) STAFFING REQUIREMENTS FOR VEHICLES;

(b) STAFF TRAINING REQUIREMENTS, INCLUDING VERBAL DE-ESCALATION AND TRAUMA-INFORMED CARE, AS WELL AS CULTURAL COMPETENCIES RELATED TO SUPPORTING PERSONS WITH PHYSICAL OR COGNITIVE DISABILITIES;

(c) OPERATING PROCEDURES, INCLUDING CIRCUMSTANCES WHEN INDIVIDUAL PHYSICAL RESTRAINT IS ALLOWED;

(d) QUALITY IMPROVEMENT AND THE PROCESS USED TO INVESTIGATE COMPLAINTS AGAINST A LICENSEE;

(e) DATA COLLECTION AND REPORTING ON UTILIZATION TO THE DEPARTMENT BY A LICENSEE;

(f) MINIMUM CLINICAL AND MEDICAL STANDARDS AND PROCEDURES;

(g) THE CIRCUMSTANCES UNDER WHICH AN INDIVIDUAL MAY BE

TRANSPORTED; AND

(h) CRITERIA FOR PICKUP AND DROP-OFF.

25-3.5-312. Funding. THE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC OR PRIVATE SOURCES FOR THE PURPOSE OF FACILITATING THE RULEMAKING PROCESS SET FORTH IN SECTION 25-3.5-311.

25-3.5-313. Reporting. THE DEPARTMENT SHALL ANNUALLY MAKE PUBLICLY AVAILABLE THE DATA COLLECTED FROM SECURE TRANSPORTATION PROVIDERS.

SECTION 3. In Colorado Revised Statutes, 25.5-5-324, **amend** (4)(a) as follows:

25.5-5-324. Nonemergency medical transportation - urgent and secure transportation need - report - funding - repeal. (4) (a) The state department shall annually report on the implementation and effectiveness of the process created in this section for meeting urgent AND SECURE transportation needs within the nonemergency medical transportation benefit AND SECURE TRANSPORTATION SERVICES BENEFIT. The state department shall present the report as part of its annual ~~presentation~~ "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" PRESENTATION REQUIRED BY SECTION 2-7-203 to the health and human services committee of the senate and the public AND BEHAVIORAL health and human services committee of the house of representatives, or any successor committees. ~~as required pursuant to section 2-7-203.~~

SECTION 4. In Colorado Revised Statutes, **add** 25.5-5-328 as follows:

25.5-5-328. Secure transportation for behavioral health crises - benefit - funding. (1) ON OR BEFORE JANUARY 1, 2023, THE STATE DEPARTMENT SHALL CREATE A BENEFIT FOR SECURE TRANSPORTATION SERVICES, AS THAT TERM IS DEFINED IN SECTION 25-3.5-103 (11.4). THE STATE DEPARTMENT SHALL RESEARCH AND CREATE A PLAN TO ESTABLISH SECURE TRANSPORTATION SERVICES, WHICH MAY INCLUDE SUPPLEMENTAL AND COORDINATED COMMUNITY RESPONSE SERVICES, TO BE IMPLEMENTED

ON OR BEFORE JULY 1, 2023. THE STATE DEPARTMENT SHALL COLLABORATE WITH THE OFFICE OF BEHAVIORAL HEALTH IN ITS RESEARCH AND PLANNING EFFORTS TO DETERMINE HOW THIS BENEFIT MAY ALIGN WITH CO-RESPONDER, MOBILE CRISIS, AND EMERGENCY CRISIS DISPATCH.

(2) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC OR PRIVATE SOURCES FOR THE PURPOSE OF FUNDING THE URGENT TRANSPORTATION NEEDS WITHIN THE EXISTING NONEMERGENCY MEDICAL TRANSPORTATION BENEFIT AND SECURE TRANSPORTATION SERVICES BENEFIT UNDER THE MEDICAL ASSISTANCE PROGRAM, AS SET FORTH IN SUBSECTION (1) OF THIS SECTION AND SECTION 25.5-5-324 (1).

SECTION 5. In Colorado Revised Statutes, 27-60-104, **amend** (7) as follows:

27-60-104. Behavioral health crisis response system - crisis service facilities - walk-in centers - mobile response units - report.

(7) The state department shall explore solutions for addressing secure transportation, AS DEFINED IN SECTION 25-3.5-103 (11.4), of individuals placed on a seventy-two-hour treatment and evaluation hold pursuant to article 65 of this title 27, AND SHALL INCLUDE THE FOLLOWING INFORMATION AS PART OF ITS 2023 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" PRESENTATION REQUIRED PURSUANT TO SECTION 2-7-203:

(a) HOW CRISIS CONTRACTORS ARE FACILITATING THE USE OF SECURE TRANSPORTATION OR CONTRACTING WITH SECURE TRANSPORTATION LICENSEES; AND

(b) HOW THE STATE DEPARTMENT HAS SUPPORTED AND ENCOURAGED CRISIS CONTRACTORS TO INCLUDE SECURE TRANSPORTATION IN THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM.

SECTION 6. In Colorado Revised Statutes, 27-65-107, **amend** (8) as follows:

27-65-107. Certification for short-term treatment - procedure.

(8) Whenever it appears to the court, by reason of a report by the treating professional person or any other report satisfactory to the court, that a

respondent detained for evaluation and treatment or certified for treatment should be transferred to another facility for treatment and the safety of the respondent or the public requires that the respondent be transported by SECURE TRANSPORTATION, AS DEFINED IN SECTION 25-3.5-103 (11.4), OR a sheriff, the court may issue an order directing the sheriff or ~~his or her~~ THE SHERIFF'S designee to deliver the respondent to the designated facility.

SECTION 7. In Colorado Revised Statutes, 40-10.1-105, **amend** (1) introductory portion and (1)(d) as follows:

40-10.1-105. Transportation not subject to regulation. (1) The following types of transportation are not subject to regulation ~~under this article~~ PURSUANT TO THIS ARTICLE 10.1:

(d) Transportation by hearses, ambulances, SECURE TRANSPORTATION, AS DEFINED IN SECTION 25-3.5-103 (11.4), or other emergency vehicles;

SECTION 8. Appropriation. (1) For the 2021-22 state fiscal year, \$46,800 is appropriated to the department of health care policy and financing for us by the executive director's office. This appropriation consists of \$39,993 from the general fund and \$6,807 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the office may use this appropriation as follows:

(a) \$32,900, consisting of \$30,335 from the general fund and \$2,565 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S., for personal services, which amount is based on an assumption that the office will require an additional 0.9 FTE;

(b) \$3,775, consisting of \$3,481 from the general fund and \$294 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S., for operating expenses; and

(c) \$10,125, consisting of \$6,177 general fund and \$3,948 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S., for Medicaid management information system maintenance and projects.

(2) For the 2021-22 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$127,801 in federal funds for use by the executive director's office to implement this act, which amount is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year. The appropriation in subsection (1) of this section is based on the assumption that the office will receive this amount of federal funds to be used as follows:

(a) \$32,901 for personal services;

(b) \$3,775 for operating expenses; and

(c) \$91,125 for Medicaid management information system maintenance and projects.

(3) For the 2021-22 state fiscal year, \$46,490 is appropriated to the department of public health and environment for use by the health facilities and emergency medical services division. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.6 FTE. To implement this act, the division may use this appropriation for administration and operations.

SECTION 9. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

STANDARDS FOR SECURE TRANSPORTATION SERVICES

6 CCR 1011-4

These rules incorporate by reference the following materials:

Federal Motor Vehicle Safety Standards 49 C.F.R. Part 567.4(a) for manufactured motor vehicles (except replica motor vehicles and vehicles manufactured in two (2) or more stages), 49 C.F.R. Part 567.5 for vehicles that are manufactured in two (2) or more stages, or 49 C.F.R. Part 567.7 for certified vehicles that are altered (2022);

and

42 CFR Part 2 Confidentiality of Substance Use Disorder Patient Records (2022).

Such incorporation does not include later amendments to or editions of the referenced material. The Health Facilities and Emergency Medical Services Division of the Colorado Department of Public Health and Environment maintains copies of the incorporated federal regulations for public inspection during regular business hours and the referenced materials may also be accessed at <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-V/part-567/section-567.4> (Requirements for manufacturers of motor vehicles); <https://www.ecfr.gov/current/title-49/section-567.5> (Requirements for manufacturers of vehicles manufactured in two or more stages); <https://www.ecfr.gov/current/title-49/section-567.7> (Requirements for persons who alter certified vehicles); and <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-A/part-2> (Confidentiality of Substance Use Disorder Patient Records).

Interested persons may obtain certified copies of any non-copyrighted material from the department at cost upon request. Information regarding how the incorporated materials may be obtained or examined is available from the division by contacting:

Associate Division Director
Health Facilities and EMS Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

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Part 1. STATUTORY AUTHORITY AND APPLICABILITY

1.1 Statutory Authority

The statutory authority for the promulgation of these rules is set forth in Sections 25-3.5-103, 25-3.5-309, 25-3.5-310, 25-3.5-311, and 25-3.5-313, C.R.S.

1.2 Applicability

- (A) Secure transportation services, as defined herein, shall comply with all applicable federal, state, and local laws and regulations, including but not limited to 6 CCR 1011-4 as it applies to the type of services provided.
- (B) Contracted services performed on behalf of secure transportation services shall meet the standards established herein.

Part 2. DEFINITIONS

2.1 "Abuse" means any of the following acts or omissions:

- (A) The non-accidental infliction of bodily injury, serious bodily injury, or death;
- (B) Confinement or restraint that is unreasonable under generally accepted standards; or
- (C) Subjection to nonconsensual sexual conduct or contact.

2.2 "Administrator" means any person who is responsible for the overall operations of the secure transportation service as set forth in Part 7.2.

2.3 "Based" means a service area in a county where the client is picked up for secure transportation services.

2.4 "Behavioral health" means an individual's mental and emotional well-being and actions that affect an individual's overall wellness. Behavioral health issues and disorders include substance use disorders, serious psychological distress, suicide, and other mental health disorders, and range from unhealthy stress or subclinical conditions to diagnosable and treatable diseases. The term "behavioral health" is also used to describe service systems that encompass prevention and promotion of emotional health and prevention and treatment services for mental health and substance use disorders.

2.5 "Behavioral health crisis" means a significant disruption in a person's mental or emotional stability or functioning resulting in an urgent need for immediate assessment and treatment to prevent a further or serious deterioration in the person's mental or physical health.

2.6 "Chemical Restraint" means giving an individual medication involuntarily for the purpose of restraining that individual; except that "chemical restraint" does not include the involuntary administration of medication pursuant to Section 27-65-111 (5), C.R.S., or administration of medication for voluntary or life-saving medical procedures.

2.7 "Class A" means secure transportation services licensed to use physical restraint during secure transport pursuant to the parameters set forth at Part 8.3.

2.8 "Class B" means secure transportation services that are not licensed to use physical restraint during secure transport.

- 2.9 “Client” means an individual experiencing a behavioral health crisis who is eligible for urgent secure transportation services as defined at Part 2.22 and who meets the parameters set forth at Part 8.1.
- 2.10 “Direct client contact” means any staff member who interacts directly with clients either before, during, or after the secure transportation service and is qualified by training pursuant to Part 7.7(A)(1). This may include the driver or any other staff member who is not providing direct client support.
- 2.11 “Direct client support” means any staff member who interacts directly with clients and is qualified by training pursuant to Part 7.7(A)(2) in mental health first aid, basic first aid, and cardiopulmonary resuscitation (CPR) who is assigned to provide secure transportation services to individuals experiencing a behavioral health crisis.
- 2.12 “Emergency Medical Services Facility” means a licensed or certified facility that provides emergency medical services, including but not limited to: hospitals, hospital units as defined at Section 25-3-101, C.R.S.; freestanding emergency departments as defined at Section 25-1.5-114, C.R.S.; psychiatric hospitals; community clinics; behavioral health entities; and community mental health centers, crisis stabilization units, or acute treatment units licensed as a behavioral health entity.
- 2.13 “Exploitation” means an act or omission committed by a person who:
- (A) Uses deception, harassment, intimidation, or undue influence for their personal gain to permanently or temporarily deprive a client of the use, benefit, or possession of anything of value;
 - (B) Forces, compels, coerces, or entices a client for the profit or advantage of the person or another person against the will of the client; or
 - (C) Misuses the property of a client in a manner that adversely affects the client’s ability to receive services or care.
- 2.14 “Facility”, for the purposes of this chapter, means all facility types defined at Part 2.22(C).
- 2.15 “Harmful act” means an act committed against a client by a secure transportation service staff member when such act is not defined as abuse, neglect, or exploitation but causes harm to the health, safety, or welfare of a client.
- 2.16 “Licensee” means the person or business entity that is granted a license by the county to operate a secure transportation service and that bears legal responsibility for compliance with all applicable federal, state, and local statutes and regulations.
- 2.17 “Manager” means any person who is responsible for supervising staff and the day-to-day operations of the secure transportation service as set forth in Part 7.3.
- 2.18 “Mistreatment” means abuse, neglect, exploitation, or a harmful act.
- 2.19 “Neglect” means a staff member’s failure to provide behavioral health care, physical care, supervision, or any other service necessary for the health or safety of a client during the secure transportation service in a timely manner and with the degree of care that a reasonable person in the same situation would exercise. Neglect also means a staff member knowingly using harassment, undue influence, or intimidation to create a hostile or fearful environment for a client.

- 2.20 “Owner” means an officer, director, general partner, limited partner, or other person having a financial or equity interest in the secure transportation service. An owner may also serve as the manager and/or administrator of a licensed secure transportation service.
- 2.21 “Physical restraint”, for the purposes of this chapter, means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of their body.
- 2.22 “Secure transportation” or “Secure transportation services” means urgent transportation services provided to individuals experiencing a behavioral health crisis. Secure transportation includes:
- (A) An individual being transported pursuant to Section 27-65-103 or 27-65-105(1), C.R.S., transportation from the community to a facility designated by the Executive Director of the Department of Human Services (DHS) for treatment and evaluation pursuant to Article 65 of Title 27;
 - (B) An individual in need of services pursuant to Articles 81 and 82 of Title 27, transportation from any location to an approved treatment facility, as described in Section 27-81-106, C.R.S., or to a walk-in crisis center that is in operation as part of the behavioral health crisis response system;
 - (C) An individual who is receiving transportation across levels of care or to a higher or lower level of care, transportation between any of the following types of facilities:
 - (1) An emergency medical services facility;
 - (2) A facility designated by the Executive Director of DHS for the treatment and evaluation pursuant to Article 65 of Title 27;
 - (3) An approved treatment facility, as described in Section 27-81-106, C.R.S.
 - (4) A walk-in crisis center that is operating as part of the behavioral health crisis response system; or
 - (5) A behavioral health entity (BHE) licensed pursuant to Section 25-27.6-106, C.R.S., with a current twenty-four (24) hour endorsement.
 - (D) Secure transportation does not include urgent transportation services provided by law enforcement or personnel employed by or contracted with a law enforcement agency to individuals experiencing a behavioral health crisis.
 - (1) Except that any member of a co-responder team may provide urgent transportation services if that co-responder:
 - (a) Is not law enforcement or personnel employed by or contracted with a law enforcement agency; and
 - (b) Holds a valid license for secure transportation by the county in which the secure transportation originates; and
 - (c) Provides secure transportation in a vehicle:
 - (i) With a valid permit issued by the county in which the secure transportation originates, and

- (ii) That meets the minimum requirements for secure transportation services in this rule chapter.

2.23 “Serious injury” means brain or spinal cord injuries; bone breaks or fractures; any injury that threatens life or limb, impairs the function of any part or organ of the body, or results in permanent disfigurement; burns of the second or third degree; and/or physical or sexual abuse as described in Article 3 of Title 18.

2.24 “Type 1” means a permitted vehicle with a permanent safety partition that separates the driver from the passenger compartment.

2.25 “Type 2” means a permitted, non-partitioned vehicle.

Part 3. COUNTY ISSUANCE OF LICENSES AND VEHICLE PERMITS

3.1 License Required

(A) Except as provided in Part 3.2 of these rules, no secure transportation service, public or private, shall transport a person experiencing a behavioral health crisis from any point within Colorado to any point within or outside Colorado unless that secure transportation service holds a valid license and permits issued by the county or counties in which the secure transportation service is based.

(B) Counties may enter into reciprocal licensing and permitting agreements:

(1) With other counties; and

(2) With neighboring states providing out-of-state secure transport services that comply with these rules or substantially equivalent out-of-state secure transport rules.

3.2 County Exemptions from Licensure or Permit Requirements

(A) The following entities may provide secure transportation services to an individual experiencing a behavioral health crisis without a secure transportation license:

(1) Ground Ambulance Agencies, licensed pursuant to Section 25-3.5-301, C.R.S.,

(2) Transportation services provided by the Office of Behavioral Health (OBH) within the DHS,

(3) Emergency service patrols established pursuant to Section 27-81-115, C.R.S., and

(4) Law enforcement.

(B) A ground ambulance agency licensed pursuant to Section 25-3.5-301, C.R.S. is exempt from additional secure transportation licensing requirements as set forth in Part 3.2(A) and is eligible to receive reimbursement pursuant to Section 25.5-5-328, C.R.S., if the ambulance agency meets all requirements set forth in 6 CCR 1011-4.

(1) A ground ambulance agency shall notify the Department if it is providing secure transportation services under its ground ambulance license as part of its secure transportation service profile set forth at Part 6.4.

- (C) In the event that all licensed secure transportation services are unavailable to provide secure transportation services in a county, the county may establish a process by which secure transportation services that are not licensed within the county's jurisdiction are allowed to provide temporary secure transportation services to an individual experiencing a behavioral health crisis.

3.3 General Requirements for County Licensure of Secure Transportation Services and Permitting of Secure Transportation Vehicles

- (A) Counties shall adopt and periodically review, by resolution or regulations, requirements for licensure of secure transportation services. The licensure requirements shall include, but not be limited to:
 - (1) Compliance with all applicable laws and regulations to operate a secure transportation service in Colorado.
 - (2) Submission of a completed application form adopted by the county.
 - (3) Submission of an application fee and vehicle permit fee(s), as defined in county resolution or regulation.
 - (4) Submission to the county, upon request, of copies of the secure transportation service's written policy and procedure manual, operational and, if applicable, medical protocols, training procedures, or other documentation the county may deem necessary.
 - (5) Demonstration by the applicant of minimum vehicle insurance coverage as defined by Section 10-4-609 and Section 42-7-103(2), C.R.S. with the county(ies) identified as the certificate holder.
 - (6) Demonstration by the applicant of proof of general liability and applicable professional liability insurance coverage, at a minimum:
 - (a) Liability insurance for injuries in the amount of \$1,000,000 for each individual claim.
 - (b) Liability insurance in the amount of \$3,000,000 for all claims made against the secure transportation service or against its personnel from an insurance company authorized to write liability insurance in Colorado.
 - (c) Liability insurance coverage to the maximum extent required by Section 24-10-114, C.R.S., as applicable, if the secure transportation service is granted qualified immunity under the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.
 - (7) Demonstration by the applicant of proof of any additional insurance as identified in county resolution or regulations.
 - (8) Demonstration by the applicant of proof of a minimum level of worker's compensation consistent with the Colorado Worker's Compensation Act in Articles 40-47 of Title 8, C.R.S., as applicable.
 - (9) A requirement that a new owner shall obtain a secure transportation license and vehicle permit(s) prior to beginning operations and upon change of ownership of a secure transportation service.

- (10) Compliance with client and crew vehicle safety standards as follows:
- (a) All vehicles must demonstrate proof of compliance with Federal Motor Vehicle Safety Standards on the date of manufacture in accordance with the following:
 - (i) 49 C.F.R. Part 567.4(a) for manufactured motor vehicles (except replica motor vehicles and vehicles manufactured in two (2) or more stages),
 - (ii) 49 C.F.R. Part 567.5 for vehicles that are manufactured in two (2) or more stages, or
 - (iii) 49 C.F.R. Part 567.7 for certified vehicles that are altered.
 - (b) All vehicles must undergo routine vehicle maintenance and periodic checks in accordance with manufacturer recommendations.
 - (c) All vehicles must have the following safety features:
 - (i) Four doors;
 - (ii) Ligature risk reduction measures;
 - (iii) Child safety and window safety locks;
 - (iv) Global Positioning System (GPS) tracking;
 - (v) Occupant protection, including seat belts, supplemental inflatable restraints, and child safety seats (as applicable);
 - (vi) Cabin temperature control and ventilation system;
 - (vii) Be absent any foreign items or instruments in the secured area that may be used to inflict harm; and
 - (viii) Mirror for monitoring the client or capability for visual observation of the client.
 - (d) If a Type 1 vehicle with a safety partition that separates the driver from the passenger compartment is being used for the secure transportation service, then the vehicle must have the following additional safety features:
 - (i) Permanent installation of all safety partitions; and
 - (ii) For vehicles with a cargo area, a safety partition must also be installed that separates the passenger compartment from the cargo area;
 - (e) All vehicles must be equipped with the following:
 - (i) First aid kit;
 - (ii) Fire extinguisher;

- (iii) Wireless two-way communication (public safety radio, commercial land mobile radio, or wireless telephone);
 - (iv) Biohazard bag;
 - (v) Personal protective equipment for each occupant as per public health recommendations; and
 - (vi) Map of service area.
- (f) If a licensed secure transportation service utilizes physical restraint as part of its services, the vehicle shall additionally be equipped with the following:
 - (i) Automated external defibrillator (AED);
 - (ii) Non-metal, soft posey-type restraints; and
 - (iii) Device intended to prevent a client from spitting or biting that does not restrict the client's airway or breathing ability and does not pose a ligature risk.
- (B) The county shall verify that each vehicle is inspected annually by qualified representatives, as defined and appointed by the county commissioners, to assure compliance with these rules. Counties shall ensure that all such representatives do not have any disclosed or undisclosed actual or potential conflicts of interest with the secure transportation service or inspection process.
 - (1) Counties shall verify that all equipment on the vehicle is properly secured and supplies are maintained and stored in accordance with this chapter and any manufacturer recommendations.
 - (2) A county may delegate or contract the vehicle inspection process but not the responsibility of licensure as set forth in Section 25-3.5-309, et seq., C.R.S.
- (C) The county may impose, by resolution, additional requirements for the secure transportation service.
- (D) A secure transportation service license or vehicle permit may not be assigned, sold, or otherwise transferred.

3.4 Licensure and Permitting Processes

- (A) Secure Transportation Service License. A secure transportation service license shall be issued by each county in which the secure transportation service is based, as defined in Part 2.3 above. The county shall ensure compliance with these rules, including minimum requirements for equipment, training, operating procedures, and all additional license requirements established by that county.
 - (1) Licensure Classifications/Categories. The county shall create a process and procedure for the issuing of licenses for each secure transportation service. Secure transportation services have the following two (2) licensing options:
 - (a) Class A – services that may use physical restraint during secure transport pursuant to the parameters set forth in Part 8.3, and

(b) Class B – services that shall not use physical restraint during secure transport.

(2) Licensure Period. The licensure period for all secure transportation services shall be three (3) years.

(B) Vehicle Permits

(1) The county shall create a process and procedure for the issuing of permits for each vehicle used to provide secure transportation services.

(2) The type of permit issued will be determined by the type of vehicle that secure transportation services and their appropriate staff utilize when providing secure transportation services to clients. Secure transportation vehicles have the following two (2) permit options:

(a) Type 1 – vehicle with a safety partition that separates the driver from the passenger compartment, or

(b) Type 2 – non-partitioned vehicle.

(3) Each county may include in its resolution or regulations the requirements for identification of the permitted level of service on each vehicle issued a permit.

(4) The county shall renew each vehicle permit on an annual basis if the secure transportation service is in compliance with county regulations or resolution.

(5) The county shall ensure each vehicle used by the licensee meets the minimum requirements for vehicle design and safety standards in accordance with Part 3.3(A)(10) of this chapter.

3.5 License and Permit Renewal. Counties shall create a license and vehicle permit renewal process. The licensure and vehicle permit renewal process shall require the receipt of applications for renewal no less than thirty (30) days before the date of license and/or permit expiration.

Part 4. COMPLAINTS

4.1 Each county shall have a written complaint and investigation policy and procedure to address:

(A) Complaints against any secure transportation service in the county.

(B) Allegations of unlicensed secure transportation services or vehicles without a valid permit operating within the county.

4.2 The policy shall include, but not be limited to:

(A) The procedures concerning complaint intake, including posted information for the public concerning how to file a complaint.

(1) The county shall include written, verbal, and alternative methods of complaint intake. As part of its complaint process, the county shall include complaint intake methods that accommodate individuals in need of language and communication assistance.

- (2) The county shall provide clients with contact information for the secure transportation service staff member(s) responsible for complaint intake and problem resolution.
 - (B) The county's duty to provide the secure transportation service with a copy of the complaint at the time it is filed.
 - (C) The county's responsibility to contact the complainant to verify the substance of the allegations.
 - (D) Criteria for initiating and conducting an investigation, including responding to and/or resolving complaints in a timely manner.
 - (E) The method for notifying the complainant about the resolution of the investigation and the secure transportation service's plan to resolve the identified issue(s).
 - (F) The method for notifying other counties with jurisdiction over secure transportation services, and, if applicable, the Colorado Department of Public Health and Environment (Department) and/or the Colorado Department of Regulatory Agencies (DORA) about complaints regarding licensed or certified staff members associated with the secure transportation service.
 - (G) The method for documenting the investigation of, and resolution process for, any complaint made.
- 4.3 The county shall notify the secure transportation service, its owner, manager, and administrator of the secure transportation service, in writing, of any:
- (A) Known violation of the secure transportation licensing regulations by the secure transportation service, or
 - (B) Known/alleged complaints or violations of the secure transportation licensing regulations by individual staff members, contractors, or licensed or certified providers operating on a secure transportation service.

Part 5. DENIAL, REVOCATION, OR SUSPENSION OF LICENSURE AND/OR VEHICLE PERMITS

- 5.1 Each county shall develop policies and procedures for the denial, suspension, or revocation of a secure transportation service license or secure transportation vehicle permit(s).
- 5.2 Each county shall develop policies and procedures for the temporary suspension or permanent revocation of a secure transportation service license and secure transportation vehicle permit(s). The policy shall include a written process by which the board of county commissioners, upon determining that any secure transportation service has violated or failed to comply with any provision of these rules, may:
- (A) Temporarily suspend a license or vehicle permit, for a period not to exceed thirty (30) days, whereby the licensee receives a written notice of temporary suspension and a hearing no later than ten (10) days after temporary suspension;
 - (B) Suspend any license or vehicle permit after the temporary suspension period, for any portion of or for the remainder of the license or permit period; or
 - (C) Permanently revoke such a license or vehicle permit upon the licensee receiving a second violation.

Part 6. DATA COLLECTION AND REPORTING REQUIREMENTS

- 6.1 All secure transportation services in Colorado shall provide the Department with the required data and information as specified in Parts 6.2 and 6.4 below in a form and manner determined by the Department.
- 6.2 Beginning in 2024, all secure transportation services shall submit, in the form and manner determined by the Department, the following data no later than March 1 for the previous calendar year:
- (A) The total number of transports (individual trips and trips with multiple clients as allowed in Part 8.4) that the service's vehicles made for the previous calendar year;
 - (B) The total number of adults (18+) served by the secure transportation service for the previous calendar year;
 - (C) The total number of minors (17 and under) served by the secure transportation service for the previous calendar year;
 - (D) The type of location where individuals were picked up and dropped off for the previous calendar year;
 - (E) The total number of individuals who were transported by the secure transportation service more than one time for the previous calendar year;
 - (F) The total number of transports (individual trips and trips with multiple clients as allowed in Part 8.4) that the secure transportation service declined due to lack of secure transportation service resources for the previous calendar year; and
 - (G) Demographic information for the previous calendar year, including, but not limited to:
 - (1) The zip code for each client residential address;
 - (2) The zip code for each client pickup location; and
 - (3) Each client's gender, race, and ethnicity.
 - (H) The total number of clients the service transported who were not on involuntary holds (M1, M.5, and M8) for the previous calendar year.
- 6.3 Any secure transport resulting in the serious injury, illness, or death of a client or staff member during transport or resulting in injury to the client as a result of the use of physical restraint during transport shall be reported to the receiving facility immediately and to the county within twenty-four (24) hours of the incident in the manner and method determined by the county. Each report shall identify and describe the circumstances leading to the serious injury, illness, or death of a client or staff member during transport.
- 6.4 The secure transportation service shall complete and submit to the Department a secure transportation service profile in the manner and method determined by the Department. The profile shall include, but not be limited to: contact information for the licensee and its owner, manager, and/or administrator, demographics of the service area, number and types of responding staff, number of calls, counties served, organizational type, and number and type of vehicles.
- (A) Secure transportation services shall update the profile data whenever changes occur and at least annually.

- (B) As part of its profile, a licensed ground ambulance agency shall notify the Department if it is providing secure transportation services under its ground ambulance license.
- 6.5 Upon Department request, the county shall provide a list of secure transportation services it licenses and a list of all vehicles for which it has issued permits to provide urgent transportation services.
- 6.6 The Department may establish procedures to monitor and enforce compliance regarding submission of secure transportation service profile information as described in Part 6.4 and annual submission of utilization data as described in Part 6.2.
- 6.7 If a secure transportation service fails to comply with these rules, the Department may report this lack of compliance to any counties in which the service is licensed.
- 6.8 The Department may establish procedures to allow outside agencies, institutions, or individuals to obtain information from the secure transportation data system.
- 6.9 A secure transportation service may request the annual data that it has submitted to the Department.

Part 7. STAFFING REQUIREMENTS

- 7.1 Manager and Administrator Minimum Qualifications. The county shall require each secure transportation service operating within its jurisdiction to have a manager and administrator who meet the following minimum qualifications:
 - (A) Be at least twenty-one (21) years of age, possess a high school diploma or GED, and:
 - (1) Have at least one (1) year documented supervisory experience in the provision of secure transportation services; or
 - (2) Be qualified by education, knowledge, and experience to oversee the secure transportation services provided;
 - (B) Be able to communicate, understand, and respond effectively to the client, family representatives, and other providers and be able to use appropriate translator services as needed;
 - (C) Be familiar with all applicable local, state, and federal laws and regulations concerning the operation and provision of secure transportation services;
 - (D) Be in good standing with any state regulatory agency if the manager or administrator is licensed or certified with DORA or the Department; and
 - (E) Have passed a background check that was performed by the secure transportation service or owner prior to the assumption of responsibilities in accordance with Part 7.6(C). The manager or administrator shall not conduct their own background check or any required follow up.
- 7.2 Administrator Responsibilities. The responsibilities of the administrator include, but are not limited to:
 - (A) Managing the business affairs and overall operation of the secure transportation service, including planning, organizing, developing, controlling, and/or maintaining the service's operations;

- (B) Organizing and directing the service's ongoing functions;
- (C) Overseeing a budgeting and accounting system;
- (D) Designating in writing a qualified back up administrator to act in the administrator's absence or requiring the administrator or their qualified designee to be available in person or remotely to assist secure transportation service staff members with urgent matters that arise during all hours that staff are providing services;
- (E) Ensuring the secure transportation service is in compliance with all applicable federal, state, and local laws;
- (F) Ensuring the completion, maintenance, and submission of such reports and records as required by the county and/or Department;
- (G) Developing and implementing a quality management program in accordance with Part 10 of these rules; and
- (H) Maintaining appropriate records and all policies and procedures of the service, including, but not limited to:
 - (1) Personnel records, including verification of each staff member's compliance with orientation and annual training requirements set forth in Part 7.7 and verification of any applicable active professional licensure or certification;
 - (2) Client records, including individual trip logs and the data reporting requirements in accordance with Part 6 of these rules; and
 - (3) Financial and administrative records, including certificates of insurance for the secure transportation service.

7.3 Manager Responsibilities. The responsibilities of the manager include, but are not limited to:

- (A) Supervising staff and the day-to-day operations of the service;
- (B) Completing annual training and core competencies required at Part 7.7(A)(1) and (2);
- (C) Ensuring annual training completion and core competencies for every staff member with direct client contact;
- (D) Implementing a quality management program in accordance with Part 10 of these rules;
- (E) Maintaining appropriate records and ensuring accurate completion of records, including, but not limited to:
 - (1) Personnel records; and
 - (2) Client records, including individual trip logs and the data reporting requirements in accordance with Part 6 of these rules; and
- (F) Implementing all policies and procedures of the secure transportation service.

7.4 The manager and administrator may be the same person.

7.5 The county shall require the secure transportation service to inform the county within fourteen (14) business days, in writing, of changes regarding the manager or administrator of record.

7.6 Secure Transportation Service Staffing

- (A) At a minimum, the county shall establish by resolution or regulations the following secure transportation staffing requirements:
 - (1) Any secure transportation vehicle driver must possess a current and valid driver's license.
 - (2) If a Type 1 vehicle is being used for the secure transport, then the following shall apply:
 - (a) If one (1) client is being transported, then one (1) staff member who possesses a current and valid certification for all training topics listed in Part 7.7(A)(1) and (2) is required to staff a vehicle permitted for each secure transport. This staff member may also be the driver.
 - (b) If more than one (1) client is being transported, then one (1) staff member who possesses a current and valid certification for all training topics listed in Part 7.7(A)(1) and (2) shall be assigned to accompany each individual client during transport. A 1:1 ratio of client to staff member shall be maintained during the transport. One of these staff members may also be the driver.
 - (3) If a Type 2 vehicle is being used for the secure transport, then the following shall apply:
 - (a) If one (1) client is being transported, then two (2) staff members are required to staff the vehicle. At minimum, the staff member who is not the driver shall possess a current and valid certification for all training topics listed in Part 7.7(A)(1) and (2).
 - (b) If more than one (1) client is being transported, then one (1) staff member who possesses a current and valid certification for all training topics listed in Part 7.7(A)(1) and (2) shall be assigned to accompany each individual client during transport. A 1:1 ratio of client to staff member shall be maintained during the transport, in addition to the driver who is not included in this staffing ratio requirement.
- (B) Each staff member with direct client contact must possess a certification or proof of having completed the required coursework in Part 7.7, as applicable.
- (C) The county shall ensure that the secure transportation service has a policy related to background checks for all staff members. Such background checks shall take place prior to an individual providing secure transportation services. The policy shall include, at a minimum:
 - (1) The secure transportation service's responsibility to conduct a background check on every existing and prospective staff member.
 - (a) If any background check reveals prior convictions of a violent, fraudulent, or abusive nature, the manager or administrator shall inquire further to determine the potential impact on client safety in accordance with the policies developed by the secure transportation service.
 - (b) If an individual is hired despite a background check that reveals a prior conviction of a violent, fraudulent, or abuse nature, the manager or

administrator shall document the reasons for hire and plans for supervision.

7.7 Staff Training

- (A) The county shall establish by resolution or regulations the following minimum staff training requirements for all staff with direct client contact:
- (1) All staff shall complete orientation and achieve core competencies in training topics before providing secure transportation services. Orientation shall include, but is not limited to, required coursework in the following topics:
 - (a) Cultural competencies including, but not limited to, supporting persons with physical or cognitive disabilities, language accessibility, and accessing interpretive services;
 - (b) In-person or online verbal de-escalation training sessions that prioritize client and staff safety and inform restraint requirements set forth in Part 8.3;
 - (c) Trauma-informed care principles;
 - (d) Evade and escape violent encounter strategies;
 - (e) Internal policies and procedures applicable to the secure transportation service and staff, including, but not limited to the staff disciplinary policy;
 - (f) Client rights; and
 - (g) Compliance with applicable privacy laws, including, but not limited to Confidentiality of Substance Use Disorder Patient Records set forth at 42 CFR Part 2 for the support of clients with substance use disorders.
 - (2) In addition to completing the minimum training requirements set forth in Part 7.7(A)(1), all secure transportation staff members who provide direct client support shall also complete training during orientation and achieve core competencies in the following topics:
 - (a) Adult and Youth Mental Health First Aid as offered by educational institutions or by professional organizations such as mentalhealthfirstaid.org, or the equivalent;
 - (b) Basic First Aid and CPR; and
 - (c) Care of clients with substance use disorders.
 - (3) All secure transportation staff members who may utilize physical restraint, as defined at Part 2.21, during secure transportation of clients under Class A services shall, in addition to completing training set forth in Part 7.7(A)(1) and (2), also complete training during orientation and achieve core competencies in the following topics:
 - (a) Circumstances and protocols governing the permissible application of individual physical restraint during secure transport in accordance with Part 8 of these rules; and

- (b) Safe application of individual physical restraint on clients during secure transport.
- (B) All staff members shall complete orientation and achieve core competencies in training topics prior to providing secure transportation services, and annually thereafter or as recommended by the relevant training organizations.
- (C) The secure transport service shall record and document each staff member's compliance with these orientation and annual training requirements and shall make them available to the county(ies) upon request.

Part 8. CLINICAL, MEDICAL, AND OPERATING STANDARDS AND PROCEDURES

8.1 Parameters for Secure Transportation. Secure transport clients shall only be transported under the following circumstances:

- (A) The client is experiencing a behavioral health crisis.
- (B) The client is in need of urgent transportation to a facility that is defined at Part 2.22(C).
- (C) The client does not and will not need either:
 - (1) Medical treatment during transport, or
 - (2) Active or ongoing medical monitoring.
- (D) The client does not and will not need to be chemically restrained during secure transport as a behavioral intervention.

8.2 Policies and Procedures

- (A) The county shall ensure that all secure transportation services have policies and procedures that follow national best practice guidelines where available, that address, at a minimum:
 - (1) Appropriate procedures to assess initially whether the client requires a higher level of transport than the service can provide;
 - (2) Appropriate procedures to follow when, during a secure transport, it becomes apparent that a client needs medical attention or a higher level of transport than the service can provide;
 - (3) Appropriate procedures to confirm the receiving facility's acceptance of the client prior to initiation of the secure transport;
 - (4) Criteria used for pickup and drop-off, including the circumstances that determine a secure transport client's eligibility as set forth in Part 8.1;
 - (5) The level of support and protection needed for both client and staff safety;
 - (6) Compliance with vehicle safety standards and procedures set forth in Part 3.3(A)(10);
 - (7) Proper evacuation of the vehicle during emergencies if the windows and/or exits of the vehicle are blocked or inaccessible;

- (8) Infection prevention and control, including the decontamination of the vehicle after each transport;
 - (9) Parental and/or guardian level of support and involvement;
 - (10) Meeting client needs on extended transports including meals, water, and bathroom breaks;
 - (11) Documentation of all steps in the process from initial pickup request to drop-off, including but not limited to documenting all stops made during the secure transportation service.
- (B) In addition, the county shall ensure that all Class A secure transportation services have the following policies and procedures that address, at a minimum:
- (1) The circumstances under which staff who provide direct client support may apply individual physical restraint during the course of the secure transportation service, given the parameters outlined in Part 8.3, and
 - (2) The application of individual physical restraint, including training protocols and safety precautions, to ensure the restraints do not restrict the client's airway or breathing ability.

8.3 Restraint

- (A) No chemical restraint shall be administered during a secure transport. If chemical restraint is needed to ensure client safety, then the client shall receive an ambulance transport.
- (B) Physical restraint, as defined at Part 2.21 for the purposes of this chapter, shall only be utilized for health and safety purposes under the following circumstances:
- (1) In cases of emergency, when the client is at risk of causing serious, probable, and imminent threat of bodily harm to themselves or to others and where there is the present ability to effect such bodily harm; and
 - (2) After the failure of less restrictive alternatives, including verbal de-escalation; or
 - (3) After a determination that such alternatives would be inappropriate or ineffective under the circumstances.
- (C) If physical restraint is utilized during a transport, the service shall document the time at which the physical restraint was applied and removed (if applicable) and the type of physical restraint used.

8.4 The secure transportation service shall transport one (1) client per vehicle transport, except under the following circumstances:

- (A) Each client has received behavioral health clearance from the treating provider at the sending facility, no physical restraint is needed, and there is a low probability of behavioral destabilization;
- (B) Each client has received medical clearance from the treating provider at the sending facility, is medically stabilized, and has a low probability of medical destabilization;

- (C) Each client has received an assessment from the treating provider at the sending facility that the client is an appropriate candidate for a transport with one or more individuals;
 - (D) The transport is an inter-facility transport as defined at Part 2.22(C); and
 - (E) Each client has given their consent to be transported with another individual(s).
- 8.5 The secure transportation service shall create and maintain accurate and detailed logs of client transports, including professional incident reports.
- 8.6 To ensure the needs of clients are met, secure transportation services that do not provide 24/7 services shall provide the client with their after-hours contact information and with contact information for the secure transportation service's back-up providers.

Part 9. CLIENT RIGHTS

- 9.1 The county shall ensure that each secure transportation service has written client rights that assure a client has the right to be treated with consideration, respect, and full recognition of human dignity and individuality, and that include, at a minimum:
- (A) The right of the client and their property to be treated with respect;
 - (B) The right of the client to have access to basic comfort items and their personal mobile phone provided the direct client support staff member establishes and documents that those items do not pose a danger to the client or staff member;
 - (C) The right of the client to wear their own clothes provided the direct client support staff member establishes and documents that those items do not pose a danger to the client or staff member;
 - (D) The right of the client to receive secure transportation services by the least restrictive means necessary to assure the safety of the client;
 - (E) The right of the client to be free from discrimination in the provision of services;
 - (F) The right of the client to be free from neglect; financial exploitation; and verbal, physical, and psychological abuse, including humiliation, intimidation, or punishment;
 - (G) For clients who request voluntary transport, the right of the client to discontinue secure transportation services;
 - (H) The right of the client to receive disclosure about any video and/or audio recording that occurs during the delivery of service in accordance with applicable privacy laws;
 - (I) The right of the client to have personally identifying health information protected from unnecessary disclosure;
 - (J) The right of the client or their representative to file a complaint against the secure transportation service with the secure transportation service and county concerning services or care that is or is not furnished, and receive documentation of the existence of the investigation and resolution of the complaint, including providing the complainant with the results of the investigation and the secure transportation service's plan to resolve any identified issues; and

- (K) The right of the client to file a complaint with the secure transportation service and county without fear of discrimination or retaliation by the secure transportation service's owner, manager, administrator, or any staff members.

9.2 The county shall ensure that each secure transportation service has client rights' policies and procedures that include, at a minimum:

- (A) Procedures for identifying, reporting, reviewing, and investigating all allegations of abuse, mistreatment, neglect, and exploitation.
- (B) Procedures for timely communicating all investigation results to the client and county in which the secure transportation service is licensed.
- (C) Procedures for timely and appropriate disciplinary action up to and including termination of staff and appropriate legal recourse against any staff member who has engaged in abuse, mistreatment, neglect, or exploitation of a client.
- (D) Procedures the direct client support staff member must follow, pursuant to Parts 9.1(B) and (C), to document their decision to:
 - (1) withhold any basic comfort items and/or the client's personal mobile phone, or
 - (2) prohibit a client from wearing their own clothes.

9.3 The secure transportation service shall provide written documentation of client rights and client rights' policies and procedures, including the right to file a complaint with the county, to clients at the initiation of the secure transportation service.

- (A) If the client is unable to read the rights, they shall be read the rights in a language they understand.

Part 10. QUALITY MANAGEMENT PROGRAM (QMP)

10.1 The county shall require each secure transportation service operating within its jurisdiction to have an ongoing quality management program (QMP) that is appropriate to the size and type of the service. The program shall incorporate a plan that evaluates the quality of client care and safety and has the following policies and procedures including, at a minimum:

- (A) The incorporation of the substantiated findings of any complaint into its QMP for the purpose of evaluating and implementing systematic changes where needed;
- (B) The general description of the types of cases, problems, or risks to be reviewed and criteria for identifying potential risks;
- (C) Identification of the staff members responsible for coordinating quality management activities;
- (D) A description of the method(s) for:
 - (1) Investigating and analyzing the frequency and causes of individual problems and patterns of problems;
 - (2) Taking corrective action to address the problems, including prevention and minimizing problems or risks;

- (3) Evaluating corrective action(s) to determine the effectiveness of such action(s);
and
 - (4) Coordinating all pertinent case, problem, or risk review information with other applicable quality assurance and/or risk management activities, such as review of client care; review of staff conduct; the client complaint system outlined in Part 4 of these rules; and education and training programs;
- (E) Documentation of required quality management activities, including cases, problems, or risks identified for review; findings of investigations; and any actions taken to address problems or risks;
- (F) A schedule for program implementation not to exceed ninety (90) days after the date of the issuance of the secure transportation service license;
- (G) A schedule for program evaluation to periodically assess the effectiveness of services and review the clinical and operational protocols and compliance with such protocols;
- (H) The utilization or application of data collected pursuant to Part 6.2 to inform the quality management plan; and
- (I) A written disciplinary policy that addresses a process for staff quality improvement.
- 10.2 The secure transportation service shall make available the quality management plan to the county in which it seeks to be licensed during the initial and renewal licensure applications.
- 10.3 The county, Department, or any other appropriate regulatory agency having jurisdiction for disciplinary or licensing sanctions shall have access to any records, reports, and other information of the quality management program.